

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FILED

SEP 25 2 34 PM '90

HONORABLE EDWARD RAFFEDIE, DISTRICT COURT JUDGE PRESIDING

Title 28
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UNITED STATES OF AMERICA,)
)
 PLAINTIFF,)
)
 VS.)
)
 JUAN RAMON MATTA-BALLESTEROS)
 DEL POZO, RUBEN ZUNO-ARCE,)
 JUAN JOSE BERNABE-RAMIREZ,)
 AND JAVIER VASQUEZ-VELASCO,)
)
 DEFENDANTS.)

CASE NO: CR 87-422(F)-ER

VOLUME 28

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, JULY 11, 1990; 9:30 A.M.

LOS ANGELES, CALIFORNIA

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13 FOR DEFENDANT RUBEN ZUNO-ARCE:

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1 APPEARANCES (CONTINUED):

2 FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

3 FEDERAL LITIGATORS GROUP
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6 ALSO PRESENT:

7 DOUGLAS KUEHL, SPEC.AGT., D.E.A.
8 HECTOR BERRELLEZ, SPEC. AGT. D.E.A.

9 SPANISH INTERPRETERS
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LOS ANGELES + CALIFORNIA WEDNESDAY, JULY 11, 1990

+ 9:30 A.M.

(JURY NOT PRESENT.)

THE COURT: ALL RIGHT. THE FIRST THING WE WANT TO DEAL WITH, MR. MEDVENE, IS YOUR REQUEST TO REOPEN AND PRESENT ADDITIONAL EVIDENCE. I'M GOING TO DENY THAT. I'M GOING TO DENY ANY FURTHER EVIDENCE TO BE PRESENTED IN THIS CASE FOR THE FOLLOWING REASONS.

NUMBER ONE, THE EVIDENCE HAS BEEN CLOSED AND WE ARE IN THE MIDST OF SETTLING THE INSTRUCTIONS.

NUMBER TWO, THIS MATTER THAT YOU SEEK TO INTRODUCE, EVEN IF IT IS ADMISSIBLE, IS STRICTLY IMPEACHMENT ON A COLLATERAL MATTER, AS FAR AS THE COURT IS CONCERNED. WHETHER OR NOT YOUR CLIENT OWNED THE HOUSE IN LA PRIMAVERA HAS NOTHING TO DO WITH WHETHER OR NOT HE ATTENDED THIS MEETING AND PARTICIPATED IN THE PLANNED ABDUCTION, SO I CONSIDER IT TO BE COLLATERAL IMPEACHMENT.

AND THIRD, THE RAPIDITY WITH WHICH THESE DOCUMENTS ARE GENERATED IS KIND OF DISQUIETING TO THE COURT AND I DON'T HAVE THE GREATEST CONFIDENCE IN THEIR INTEGRITY. SO FOR THOSE REASONS, THERE WILL BE NO FURTHER EVIDENCE PRESENTED IN THIS CASE.

MR. BLANCARTE: MAY WE BE BRIEFLY HEARD ON THESE MATTERS?

1 THE COURT: NO.

2 MR. BLANCARTE: HAS YOUR HONOR RECEIVED A COPY OF THE
3 BRIEF THAT WE FILED THIS MORNING?

4 THE COURT: NO, I HAVE NOT.

5 MR. BLANCARTE: MAY I ASK THE COURT'S INDULGENCE --

6 THE COURT: I'M NOT GOING TO HEAR ANY FURTHER
7 EVIDENCE, REGARDLESS OF THE BRIEF. I HAVE STATED MY REASONS,
8 AND I'M NOT GOING TO HAVE ANY MORE EVIDENCE PRESENTED IN THIS
9 CASE.

10 MR. BLANCARTE: I WOULD LIKE TO JUST FOR THE RECORD
11 STATE, YOUR HONOR, THAT A NINTH CIRCUIT CASE, A SIMPKOFF CASE,
12 I THINK SPEAKS DIRECTLY TO THE ISSUE OF REOPENING THE CASE
13 UNDER THESE SPECIFIC CIRCUMSTANCES, YOUR HONOR, AND I WOULD
14 BRING IT TO THE COURT'S ATTENTION AND ASK THE COURT'S
15 INDULGENCE TO AT LEAST REVIEW THE DOCUMENTS WE FILED THIS
16 MORNING THAT HAVE BEEN SERVED ON THE GOVERNMENT AND AT LEAST
17 HOLD ON THE RULING UNTIL THE COURT HAS HAD THE OPPORTUNITY TO
18 READ THAT CASE.

19 THE COURT: I WILL READ THE CASE.

20 MR. STOLAR: AT LEAST WITH RESPECT TO THE DEATH
21 CERTIFICATE OF JORGE BARBA HERNANDEZ, WHICH INDICATES THAT THE
22 MAN IS SINGLE, WE OBVIOUSLY JOIN IN THE ATTEMPT TO INTRODUCE
23 THAT PIECE OF EVIDENCE.

24 AND WITH RESPECT TO THAT PARTICULAR PIECE OF
25 EVIDENCE, WE DO NOT BELIEVE THAT IS COLLATERAL AT ALL,

28-6

1 PARTICULARLY SINCE IT IS THE --

2 THE COURT: IT IS ALSO -- I DON'T UNDERSTAND WHY THAT
3 COULD NOT HAVE BEEN PRODUCED LONG BEFORE THIS.

4 MR. BLANCARTE: I COULD SPEAK TO THAT BRIEFLY, YOUR
5 HONOR. THIS COURT FOCUSED OUR ONGOING INVESTIGATION FOR THAT
6 TYPE OF DOCUMENT WHEN THE NON-ADMISSIBILITY OF THE BIRTH AND
7 MARRIAGE CERTIFICATES BECAME YOUR TENTATIVE RULING.

8 OUR ON-GOING INVESTIGATION IMMEDIATELY FOCUSED ON
9 WHAT ELSE MIGHT BE AVAILABLE, AND WE WISH WE WOULD HAVE THOUGHT
10 OF IT SOONER. WE WISH WE WOULD HAVE HAD IT SOONER, BUT THIS
11 CASE IS NOT ABOUT WISHING, YOUR HONOR, IT'S ABOUT FACTS. AND
12 THE FACT IS THAT THE DEATH CERTIFICATE SHOWED UP WITH A MARITAL
13 STATUS WHICH SHOWS THAT MR. BARBA WAS SINGLE. THAT GOES TO THE
14 VERY HEART AND THE VERY INTEGRITY OF THIS ENTIRE JUDICIAL
15 PROCESS.

16 AND THE FACTS THAT ARE BEFORE THE COURT AT THIS
17 MOMENT COMPEL AT LEAST A CAREFUL ANALYSIS OF THE LAW AND THE
18 DOCUMENT, WHICH HAS INTEGRITY, YOUR HONOR, BECAUSE IT'S
19 AUTHENTICATED BY THE OFFICIAL CUSTODIAN OF RECORDS.

20 THE COURT: ALL RIGHT, COUNSEL, STOP. I'LL READ YOUR
21 BRIEF. SIT DOWN.

22 MR. BLANCARTE: THANK YOU.

23 THE COURT: NOW, SOMEBODY HAS MOVED MY JURY
24 INSTRUCTIONS THAT I WAS GOING OVER YESTERDAY. WHO DID THAT?

25 THE COURT: LET'S ADJOURN.

1 THE CLERK: PLEASE RISE.

2 (BRIEF RECESS.)

3 MR. NICOLAYSEN: YOUR HONOR, THERE IS ONE OTHER
4 EXHIBIT THAT THE GOVERNMENT AND I ARE NOT IN AGREEMENT AS TO
5 WHETHER IT IS IN EVIDENCE. IT HAS BEEN MARKED. WOULD THIS BE
6 AN APPROPRIATE TIME TO BRING THAT UP?

7 THE COURT: WHAT IS THE EXHIBIT?

8 MR. NICOLAYSEN: IT IS DEFENSE EXHIBIT F, THE
9 COOPERATING INDIVIDUAL AGREEMENT THAT MY CLIENT JAVIER VASQUEZ
10 SIGNED IN JULY OF '89 WITH THE D.E.A.

11 YOUR HONOR MAY RECALL I PRESENTED IT TO AGENT
12 REYNOSO.

13 THE COURT: I ONLY ASKED WHAT THE EXHIBIT WAS AND YOU
14 HAVE EXPLAINED THAT, SO THERE IS NO REASON TO CARRY ON ANY
15 FURTHER.

16 WHAT IS THE OBJECTION TO THIS?

17 MR. MEDRANO: THE OBJECTION IS THAT IT WAS A DOCUMENT
18 RAISED ON CROSS-EXAMINATION BY MR. NICOLAYSEN. THE AGENT
19 TESTIFIED AT LENGTH AS TO THE CONTENTS OF IT. THE DOCUMENT IS
20 HEARSAY AND INADMISSIBLE.

21 THERE IS PLENTY OF EVIDENCE AS TO WHAT IT STANDS FOR
22 ALREADY IN THE RECORD WITHOUT THE DOCUMENT.

23 THE COURT: THE DOCUMENT MAY BE RECEIVED.

24 (EXHIBIT # F RECEIVED IN EVIDENCE.)

25 MR. NICOLAYSEN: THANK YOU, YOUR HONOR.

1 THE COURT: I BELIEVE THAT YESTERDAY WE DID
2 GOVERNMENT PROPOSED INSTRUCTION NO. 9, AS APPROVED. EXHIBIT
3 NO. 10 MAY BE AMENDED TO "AFTER OCTOBER 12". THAT WOULD BE THE
4 OBJECTION TO IT.

5 MR. NICOLAYSEN: I HAVE AN OBJECTION TO NUMBER 8.
6 THIS IS WHERE WE LEFT OFF YESTERDAY.

7 THE COURT: I UNDERSTAND THAT YOU HAVE AN OBJECTION
8 AND WE'LL GET TO IT. DO YOU MEAN TO THE MODIFICATION?

9 MR. NICOLAYSEN: SIMPLY THE DELETION OF A REFERENCE
10 TO COUNT ONE AND TWO, AND THE GOVERNMENT CONCURS IN THAT.
11 THAT'S ALL I'M ASKING TO MODIFY; NUMBER 8, ON LINES 3 AND 4 ON
12 GOVERNMENT'S PROPOSED NUMBER 8.

13 THE COURT: IT PRESENTLY READS: "AS CHARGED IN
14 COUNTS ONE, TWO, THREE AND FOUR".

15 MR. NICOLAYSEN: RIGHT. AND I'M ASKING THAT THE
16 REFERENCES TO ONE AND TWO BE DELETED. THE INSTRUCTION HAS NO
17 BEARING ON THE WALKER-RADELAT ASPECT OF THE CASE. IS THAT
18 CORRECT?

19 MR. CARLTON: YES, YOUR HONOR.

20 THE COURT: COUNT ONE AND TWO SHOULD BE DELETED.

21 MR. NICOLAYSEN: THANK YOU.

22 THE COURT: NUMBER 11, THE GOVERNMENT'S PROPOSED
23 NUMBER 11, WOULD BE MODIFIED TO INCLUDE A REQUIREMENT THAT THE
24 PARTICIPATION OCCURRED "AFTER OCTOBER 12TH".

25 NUMBER 12 IS OKAY, APPROVED AS IS.

1 NUMBER 13 SHOULD BE AMENDED TO INCLUDE "AFTER OCTOBER
2 12TH".

3 MR. STOLAR: DOES THE OCTOBER 12TH LANGUAGE ALSO
4 APPLY TO THE CONSPIRACY TO KIDNAP?

5 THE COURT: NO, I DON'T BELIEVE IT DOES.

6 MR. STOLAR: I THINK IT DOES BECAUSE THE CRIME DOES
7 NOT BECOME A CRIME WITH RESPECT TO D.E.A. AGENT CAMARENA UNTIL
8 OCTOBER 12, '84, THE SUBSTANTIVE CRIME AND THE CONSPIRACY
9 CRIME.

10 THE COURT: THE CRIME WAS COMMITTED IN FEBRUARY OF
11 1985.

12 MR. STOLAR: I UNDERSTAND THAT.

13 THE COURT: JANUARY OF 1985.

14 MR. STOLAR: MR. MATTA'S CONDUCT, HOWEVER, ACCORDING
15 TO THE PROOF, HAPPENED SOME --

16 THE COURT: I DON'T WANT TO HEAR ANY ARGUMENT NOW.
17 WE'LL GET TO THAT WHEN THE TIME COMES.

18 NOW, WE HAVE MR. MATTA'S SUPPLEMENTAL PROPOSED JURY
19 INSTRUCTIONS.

20 NUMBER 1 IS A DUPLICATE OF THE COURT'S INSTRUCTION
21 AND WILL NOT BE GIVEN.

22 NUMBER 2 IS CUMULATIVE OF INSTRUCTION 3.11 THAT HAS
23 BEEN PREVIOUSLY APPROVED AND AGREED TO, AND THE SAME IS TRUE OF
24 NUMBER 3. THAT IS COVERED BY 3.11.

25 AND INSTRUCTION NUMBER 4 IS NOT AN INSTRUCTION OF LAW

28-10

1 BUT AN ARGUMENT ON THE FACTS AND THE COURT WILL NOT GIVE IT.

2 NUMBER 5 IS NOT APPROPRIATE IN ITS PRESENT FORM. IF
3 IT'S AMENDED TO MORE ACCURATELY STATE THE LAW, THE COURT WILL
4 CONSIDER IT.

5 MR. STOLAR: YOUR HONOR, IN A MODIFIED INSTRUCTION OF
6 NUMBER 5 THAT YOUR CLERK PROVIDED US YESTERDAY, WE HAVE
7 MODIFIED THIS INSTRUCTION TO BASICALLY CHARGE ESSENTIALLY A
8 MULTIPLE ENTERPRISE CONCEPT. THE INSTRUCTION IS APPROPRIATE IN
9 THAT SENSE. HOWEVER, YOUR INSTRUCTION OR THE ONE THAT IS
10 DECIDED HERE --

11 THE COURT: WE'LL GET TO THOSE WHEN I FINISH GOING
12 THROUGH THESE.

13 MR. STOLAR: ALL RIGHT.

14 THE COURT: INCIDENTALLY, I EXPECT THE PEOPLE THAT
15 PROPOSE THESE INSTRUCTIONS TO SUBMIT NEW INSTRUCTIONS WITH THE
16 CORRECTIONS, THE ONES THAT ARE BEING AMENDED.

17 NOW, WE HAVE ZUNO ARCE'S PROPOSED SUPPLEMENTAL JURY
18 INSTRUCTIONS WHICH SUPPORT --

19 MR. STOLAR: YOUR HONOR, OUR PROPOSED NUMBER 6, THE
20 ACCOMPLICE?

21 THE COURT: PARDON?

22 MR. STOLAR: OUR PROPOSED NUMBER 6?

23 THE COURT: NO. THE COURT IS NOT GOING TO GIVE THIS.
24 WE ARE GIVING AN INSTRUCTION ON THE SAME PERSON REGARDING A
25 STATUS AS AN INFORMANT. IT IS NOT CLEAR THAT HE REALLY

28-11

1 QUALIFIES AS AN ACCOMPLICE, AND THE INSTRUCTION THAT WILL BE
2 GIVEN IS SUFFICIENT, SO I DON'T THINK THIS IS REQUIRED.

3 MR. STOLAR: FRANK RETAMOZA CERTAINLY QUALIFIES AS AN
4 ACCOMPLICE.

5 THE COURT: NOT TO THE CHARGED CRIME.

6 MR. STOLAR: CERTAINLY TO A MAJOR ELEMENT OF THE
7 CHARGED CRIME.

8 THE COURT: ALL RIGHT. WE GET ON TO MR. ZUNO'S
9 SUPPLEMENTAL JURY INSTRUCTIONS.

10 THE FIRST ONE IS COVERED BY THE COURT'S INSTRUCTION
11 ON REASONABLE DOUBT, AND IT IS NOT NECESSARY TO BE DUPLICATED.
12 THE COURT IS GIVING AN ALTERNATE INSTRUCTION.

13 NUMBER 2 IS NOT APPROPRIATE IN THIS CASE, AND THE
14 COURT WILL NOT GIVE IT.

15 NUMBER 3 IS REDUNDANT TO THE AGREED UPON INSTRUCTION
16 FROM THE NINTH CIRCUIT INSTRUCTIONS. THIS IS ALL COVERED IN
17 ANOTHER INSTRUCTION.

18 NUMBER 4 IS THE REQUEST FOR AN INSTRUCTION ON
19 SPECIFIC INTENT. THE COURT IS NOT GOING TO GIVE THIS. THE
20 COURT WILL GIVE THE INTENT STATED IN THE STATUTE AND FOLLOW THE
21 RECOMMENDATION OF THE NINTH CIRCUIT JURY COMMITTEE THAT
22 SPECIFIC INTENT INSTRUCTIONS NOT BE GIVEN, AND THAT IS NOT
23 NECESSARY OR APPROPRIATE SINCE THE ELEMENT OF INTENT IS HAS
24 BEEN SET FORTH IN THE STATUTE.

25 I'M NOT GOING TO GIVE THE INSTRUCTION ON INTENT AND

28-12

1 MOTIVE. I SIMPLY DO NOT BELIEVE IT TO BE NECESSARY. THE
2 INSTRUCTION ON "WILLFULLY" IS NOT GOING TO BE GIVEN BECAUSE IT
3 IS NOT IN THE STATUTE AND IT IS NOT NECESSARY.

4 NUMBER 7 IS COVERED BY ANOTHER INSTRUCTION THAT HAS
5 PREVIOUSLY BEEN SUBMITTED. THERE WILL BE AN INSTRUCTION ON THE
6 EFFECT OF THE STATEMENT OF A DEFENDANT.

7 NUMBER 8 WILL NOT BE GIVEN. THAT IS COVERED BY
8 ANOTHER INSTRUCTION THAT THE COURT HAS PREVIOUSLY INDICATED WAS
9 APPROVED.

10 INSTRUCTION NUMBER 9, I'M NOT GOING GIVE BECAUSE IT
11 IS ARGUMENTATIVE AND THE FORM THAT IS ATTACHED DOES NOT
12 ACCURATELY FOLLOW THE INSTRUCTION ON WHICH IT IS BASED AND MAY
13 BE ARGUED, IF THERE IS AN ARGUMENT ON THE EVIDENCE.

14 NUMBER 10 IS MISLEADING AND WILL NOT BE GIVEN BECAUSE
15 OF THE FACT THAT WE HAVE STATEMENTS AND ACTS THAT MAY BE
16 CONSIDERED HERE AND STATEMENTS AND ACTS THAT MAY BE NOT, SO I
17 WANT YOU TO CONSIDER THE POSSIBILITY OF SUBSTITUTING BLACK AND
18 DECKER INSTRUCTION 2706, WHICH I RAISED EARLIER IN THIS TRIAL.

19 NUMBER 11, IN THE VIEW OF THE COURT, IS NOT NEEDED.
20 THAT IS ALREADY COVERED ADEQUATELY BY OTHER INSTRUCTIONS AND IS
21 MERELY REDUNDANT OF OTHER INSTRUCTIONS.

22 NUMBER 12: I WILL GIVE THIS IN ITS FULL FORM. YOU
23 HAVE GIVEN THE FIRST PARAGRAPH, BUT NOT THE SECOND. IF YOU
24 WANT TO ADD BOTH PARAGRAPHS TO IT, I WILL GIVE IT.

25 DO YOU WANT THAT?

28-13

1 MS. FULGINITI: YES, YOUR HONOR.

2 MR. MEDVENE: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. THEN THIS WILL BE GIVEN IN
4 ITS FULL FORM, WITH THE OMITTED PARAGRAPH INCLUDED. YOU WILL
5 SUBMIT A CORRECTED INSTRUCTION.

6 NUMBER 13 IS APPROVED AND WILL BE GIVEN REGARDING THE
7 TESTIMONY OF AN INFORMANT.

8 NUMBER 14 IS NOT ADMITTED BECAUSE I DON'T RECALL
9 ANYONE ADMITTING TO BE A PERJUROR IN THIS CASE, SO THAT IS NOT
10 APPROPRIATE. THIS INSTRUCTION IS RESERVED WHERE A PARTY ADMITS
11 HAVING TESTIFIED FALSELY UNDER OATH.

12 THE NEXT INSTRUCTION, NUMBER 15, REGARDING BIAS,
13 PREJUDICE OR HOSTILITY IS COVERED ADEQUATELY IN THE COURT'S
14 VIEW BY 307 OF THE NINTH CIRCUIT INSTRUCTION, WHICH THE COURT
15 HAS APPROVED, AND WILL BE GIVEN.

16 NUMBER 16 IS NOT NEEDED, ALSO COVERED BY INSTRUCTION
17 307.

18 NUMBER 17 IS APPROVED AND THE COURT WILL GIVE IT.

19 NUMBER 18 WILL BE GIVEN.

20 NUMBER 19 WILL NOT BE GIVEN.

21 NUMBER 20 WILL BE APPROVED AND GIVEN.

22 NUMBER 21 WILL NOT BE GIVEN BECAUSE IT IS AN
23 INCORRECT STATEMENT OF THE LAW.

24 THE COURT: MEMBERSHIP IN THE NARCOTICS ENTERPRISE IS
25 NOT REQUIRED TO BE PROVED AS AN ELEMENT SINCE THE STATUTE

28-14

1 ITSELF SAYS ONE OF THE REASONS FOR THESE COMMISSIONS OF THE
2 VIOLENT ACTS WOULD BE TO GAIN ENTRY INTO SUCH AN ORGANIZATION,
3 AND THIS IS COVERED BY OTHER INSTRUCTIONS, AS WELL.

4 THIS NEXT INSTRUCTION, NUMBER 22, IS CUMULATIVE TO
5 307 AND IS ADEQUATELY COVERED THERE.

6 NUMBER 23 WILL BE APPROVED IN THE FORM WITH THE
7 SUGGESTED MODIFICATION BY THE GOVERNMENT IN THEIR OBJECTIONS.
8 DO YOU KNOW WHAT THAT IS THAT I'M REFERRING TO?

9 MR. CARLTON: YES, YOUR HONOR.

10 THE COURT: ALL RIGHT. NUMBER 24 IS NOT NEEDED
11 BECAUSE I'VE ASKED COUNSEL TO PREPARE A GENERAL INSTRUCTION
12 WHICH WILL SET FORTH FOR THE JURY WHAT EACH COUNT CONTAINS AND
13 WHAT EACH DEFENDANT IS CHARGED WITH SO THAT SHOULD AMPLY
14 IDENTIFY THE CHARGES AGAINST EACH DEFENDANT, AND THIS IS NOT
15 NEEDED IN VIEW OF THAT. THAT IS ONE OF THE REASONS I ORDERED
16 IT.

17 NUMBER 25 IS A DUPLICATE OF 701 AND IT IS AMPLY
18 COVERED BY 701. AND THEREFORE, THIS IS NOT NEEDED.

19 NUMBER 26 IS A DUPLICATE OF 704 AND NOT NEEDED.

20 NUMBER 27 IS APPROVED AND MAY BE GIVEN.

21 NUMBER 28 IS CUMULATIVE OF 701 AND 704, BOTH OF WHICH
22 AMPLY DEAL WITH THIS SUBJECT MATTER AND WILL NOT BE GIVEN.

23 AND NUMBER 29 IS NOT, IN THE VIEW OF THE COURT, AN
24 APPROPRIATE INSTRUCTION AND WILL NOT BE GIVEN, ALTHOUGH IT WAS
25 GIVEN IN THE LAST TRIAL WITHOUT -- INDEED, BY AGREEMENT.

28-15

1 MR. NICOLAYSEN: WOULD THE COURT CONSIDER ADDING THE
2 LAST SENTENCE FROM PROPOSED NUMBER 1 TO THE COURT'S REASONABLE
3 DOUBT INSTRUCTION? THAT LAST SENTENCE READS --

4 THE COURT: NO. NO. I'VE ALREADY CONSIDERED THAT
5 AND WE HAVE DRAFTED THE INSTRUCTION WE ARE GOING TO GIVE. I'M
6 NOT GOING CONSIDER ANY FURTHER MODIFICATION TO IT.

7 MR. NICOLAYSEN: VERY WELL. THANK YOU, YOUR HONOR.

8 THE COURT: THE DEFENDANT BERNABE RAMIREZ'S PROPOSED
9 SUPPLEMENTAL JURY INSTRUCTIONS.

10 NUMBER 1 IS A DUPLICATE OF 502 OF THE NINTH CIRCUIT
11 INSTRUCTIONS AND WILL NOT BE GIVEN AND IT'S COVERED BY OTHER
12 INSTRUCTIONS.

13 NUMBER 2 IS A DUPLICATE ALSO OF 502 AND CONTAINS
14 "WILLFULLY" AND "SPECIFIC INTENT", WHICH THE COURT HAS
15 PREVIOUSLY INDICATED ARE NOT GOING TO BE IN THIS TRIAL.

16 NUMBER 3 IS DENIED BECAUSE IT IS SIMPLY NOT NECESSARY
17 AND IT IS COVERED BY THE INSTRUCTION ON ACCESSORY.

18 THE DEFENDANT BERNABE RAMIREZ HAS PRESENTED OTHER
19 INSTRUCTIONS THROUGH HIS OTHER LAWYER, I GUESS WORKING
20 SEPARATELY HERE ON THIS.

21 NUMBER 1: I'M NOT GOING TO GIVE THIS. 401, WHICH
22 WILL BE GIVEN -- 4.01, IS SUFFICIENT. THE BALANCE OF THIS MAY
23 BE ARGUED BY COUNSEL, BUT THE COURT DOES NOT FEEL IT IS
24 APPROPRIATE TO BE IN THE INSTRUCTION.

25 NUMBER 2 IS NOT GOING TO BE GIVEN BECAUSE THE COURT

28-16

1 CONSIDERS IT TO BE AN ARGUMENT ON THE EVIDENCE IN THE CASE AND
2 NOT APPROPRIATE.

3 DEFENDANT VASQUEZ VELASCO HAS AS COUPLE OF
4 INSTRUCTIONS. NUMBER 1 IN HIS PROPOSED SPECIAL JURY
5 INSTRUCTIONS -- NUMBER 1 IS APPROVED AND MAY BE GIVEN.

6 NUMBER 2 IS A DUPLICATE OF MR. ZUNO'S INSTRUCTION
7 AND, THEREFORE, IS NOT NEEDED AND THERE WILL BE AN INSTRUCTION
8 ON THIS SUBJECT. I THINK WE DISCUSSED THE AGREED INSTRUCTIONS;
9 DIDN'T WE?

10 MR. CARLTON: YES, YOUR HONOR.

11 MR. NICOLAYSEN: YES, YOUR HONOR.

12 THE COURT: NOW, I THINK WE HAD SOME PROPOSED
13 SUPPLEMENTAL INSTRUCTIONS BY MR. ZUNO'S COUNSEL -- STRIKE THAT.
14 I THINK WE'VE COVERED ALL OF THE INSTRUCTIONS NOW, HAVE WE NOT,
15 THAT HAVE BEEN PROPOSED OR SUBMITTED, EITHER AGREED OR
16 SUBMITTED BY ANY COUNSEL?

17 MR. CARLTON: YOUR HONOR, I BELIEVE THERE WAS AN
18 ADDITIONAL SET OF PROPOSED AMENDED AND SUPPLEMENTAL JURY
19 INSTRUCTIONS BY MR. ZUNO.

20 THE COURT: WHEN WAS THAT?

21 MR. CARLTON: VERY RECENTLY. PERHAPS YESTERDAY
22 MORNING OR THE AFTERNOON BEFORE.

23 THE COURT: I THOUGHT WE COVERED THEM.

24 MR. CARLTON: IT IS A DIFFERENT SET.

25 THE COURT: WE COVERED TWO. THAT'S THE ONE. WE

1 COVERED 1 AND WE COVERED --

2 MR. CARLTON: THERE WAS A SET OF 29 PROPOSED
3 INSTRUCTIONS AND THEN A SET OF AMENDED PROPOSED INSTRUCTIONS
4 AND THREE ADDITIONAL --

5 THE COURT: DO YOU HAVE A COPY THERE?

6 MR. CARLTON: YES, I DO, YOUR HONOR.

7 THE COURT: THERE ARE ONLY THREE INSTRUCTIONS HERE;
8 IS THAT CORRECT?

9 MR. CARLTON: CORRECT, WITH AN AMENDMENT OF AN
10 EARLIER PROPOSED --

11 THE COURT: AMENDED 1?

12 MR. CARLTON: YES. AMENDED 21.

13 THE COURT: THIS IS AN INSTRUCTION THAT THE JURY
14 SHOULD NOT CONFUSE THE MEXICAN NAMES IN THIS CASE; IS THAT THE
15 ONE YOU'RE TALKING ABOUT?

16 MR. DI NICOLA: YES, YOUR HONOR.

17 THE COURT: GIVING THE EXAMPLE OF BARBA HERNANDEZ AND
18 SANCHEZ BARBA.

19 MR. CARLTON: THAT IS CORRECT.

20 THE COURT: THIS INSTRUCTION IS NOT NECESSARY, IN
21 COURT'S VIEW, AND IT'S AN ATTEMPT TO INCLUDE ARGUMENT WHICH MAY
22 BE MADE BY COUNSEL AT THE TRIAL, AND WE NEED NOT PUT THAT IN
23 THE FORM OF A LEGAL INSTRUCTION.

24 THE SECOND AMENDED PROPOSED INSTRUCTION HERE IS THE
25 INSTRUCTION THAT THE JURY MUST FIND THAT EACH DEFENDANT

28-18

1 COMMITTED AN ACT OF RACKETEERING AND A VIOLENT ACT AFTER
2 OCTOBER 12TH, ALTHOUGH THIS INSTRUCTION MISSTATES THE LAW.

3 I'VE ALREADY INDICATED WE ARE GOING TO MAKE SOME
4 CHANGES IN THAT RESPECT. A DEFENDANT NEED NOT COMMIT AN ACT OF
5 RACKETEERING TO BE CONVICTED, NOR MUST A DEFENDANT ACTUALLY
6 COMMIT A VIOLENT ACT. CONSPIRING TO COMMIT A VIOLENT ACT IS
7 SUFFICIENT. THIS IS DENIED.

8 THE THIRD ONE IS AN INSTRUCTION WHICH READS THAT:

9 "IN REGARD TO COUNT FIVE, YOU MUST SEPARATELY
10 FIND THAT EACH DEFENDANT CONSPIRED TO DO THE ALLEGED
11 ACT AFTER THE LAW CAME INTO EFFECT ON OCTOBER 12TH."

12 WE WILL GIVE THIS INSTRUCTION IN A MODIFIED FASHION
13 TO READ AS FOLLOWS:

14 "IN REGARD TO COUNT FIVE, YOU MUST SEPARATELY
15 FIND THAT EACH DEFENDANT WAS A MEMBER OF THE
16 CONSPIRACY AFTER THE LAW CAME INTO EFFECT ON OCTOBER
17 12, 1984, AND THAT AT LEAST ONE MEMBER OF THE
18 CONSPIRACY COMMITTED AN ACT IN FURTHERANCE OF THE
19 CONSPIRACY AFTER OCTOBER 12, 1984 AND WHILE THE
20 DEFENDANT WAS A MEMBER OF THE CONSPIRACY.

21 "IF YOU DO NOT, YOU MUST FIND THE DEFENDANT NOT
22 GUILTY."

23 I BELIEVE THIS PROPERLY STATES THE LAW.

24 DID WE DEAL WITH THE INSTRUCTION REGARDING POSSESSION
25 OF PHOTOGRAPHS BY VASQUEZ -- OF VASQUEZ BY THE --

28-19

1 MR. NICOLAYSEN: YES, YOUR HONOR. YOU GRANTED NUMBER
2 1, WHICH IS THE PHOTOGRAPH INSTRUCTION.

3 THE COURT: ALL RIGHT. THEN I THINK WE HAVE COVERED
4 ALL OF THE INSTRUCTIONS THAT HAVE BEEN SUBMITTED OR PROPOSED.

5 NOW I WILL ENTERTAIN SOME VERY BRIEF ARGUMENT,
6 BECAUSE -- AND YOU SHOULD SPECIFY THE INSTRUCTION THAT YOU'RE
7 TALKING ABOUT SO I CAN LOCATE IT, AND GIVE YOUR OBJECTION.

8 MR. STOLAR: WELL, THE FIRST REQUEST THAT I HAVE IS
9 WITH RESPECT TO THE HAIR INSTRUCTION THAT WE PROPOSED AND IT
10 IS, I SUGGEST, THE ONLY CREATIVE INSTRUCTION THAT WE PUT
11 TOGETHER. I WOULD ASK YOU TO RECONSIDER THAT OR THINK ABOUT
12 RECONSIDERING IT AFTER YOU HEAR THE GOVERNMENT SUMMATION AND
13 WHAT THEY DO WITH HAIR EVIDENCE, THAT'S ALL.

14 SECOND, THE MAJOR CONCEPTUAL PROBLEM THAT WE HAVE
15 WITH RESPECT TO MR. MATTA IS IN THE INSTRUCTIONS THAT WERE
16 PROVIDED TO US YESTERDAY BY YOUR CLERK, AND WITH THE COURT'S
17 INSTRUCTIONS CONCERNING THE 1959 COUNT, ON I BELIEVE --

18 THE COURT: I SHOULD HAVE A COPY OF THIS. WHAT'S THE
19 PROBLEM?

20 (DISCUSSION OFF THE RECORD BETWEEN THE JUDGE AND HIS
21 LAW CLERK.)

22 MR. STOLAR: THE ONES I'M REFERRING TO ARE THE ONES
23 THAT IN THE LOWER RIGHTHAND CORNER SAY "MODIFIED, M NUMBER 5,
24 AMENDED SECTION 1959, G NUMBER 5, AND AMENDED G NUMBER 6."

25 THE COURT: YES.

28-20

1 MR. STOLAR: THE PROBLEM HAS TO DO WITH THE WORD
2 "CONSPIRACY" AND CHARGING THE JURY THAT WITH RESPECT TO THE
3 1959 COUNT, THERE IS A CONSPIRACY AND THAT THEY MAY CONVICT
4 SOMEBODY, PARTICULARLY MR. MATTA, ON THE BASIS THAT HE WAS A
5 CONSPIRATOR TO VIOLATE SECTION 1959, AS OPPOSED TO AN AIDER AND
6 ABETTOR, WHICH IS CHARGED IN THE INDICTMENT.

7 THAT IS PARTICULARLY IMPORTANT FOR MR. MATTA BECAUSE
8 OF THE CONDUCT WHICH THE GOVERNMENT ALLEGES IS ONLY THE
9 PRESENCE AT THIS MEETING OR TWO MEETINGS SOMETIME IN OCTOBER OF
10 1984, WHETHER IT IS BEFORE OR AFTER. THAT SPEAKS OF CONSPIRACY
11 BECAUSE THERE IS NO SUBSTANTIVE CONDUCT ALLEGED ON HIS PART.

12 THE INDICTMENT, AS IT PRESENTLY STANDS, CHARGES MR.
13 MATTA IN WHAT IS NOW COUNT III, WITH A VIOLATION OF SECTION
14 1959 AND 2, WHICH IS AIDING AND ABETTING A VIOLENT CRIME IN AID
15 OF RACKETEERING. THERE IS NO CONSPIRACY CHARGE IN THE CASE
16 ANYMORE. MR. MATTA IS NOT PART OF A CONSPIRACY, SO THE
17 LANGUAGE OF, FOR EXAMPLE, AMENDED GOVERNMENT'S 6, WHICH IS IN
18 WHAT WE GOT FROM YOUR CLERK YESTERDAY, THE THIRD C, SPEAKS THAT
19 THE DEFENDANT CONSPIRED COMMISSION OF THE VIOLENT ACTS, AS
20 CHARGED.

21 THAT IS, UNDER THE INDICTMENT AS IT IS PRESENTLY
22 BEFORE THE JURY, NOT SUFFICIENT TO CONVICT. THERE IS NO
23 CONSPIRACY CHARGE TO VIOLATE 1959. THE SAME THING THEN HOLDS
24 TRUE WITH RESPECT TO MODIFIED NUMBER FIVE. HALFWAY DOWN ON
25 LINE NUMBER 8, THE INSTRUCTION READS:

1 "SIMILARLY, IF YOU FIND THAT ANY DEFENDANT DID
2 NOT CONSPIRE TO COMMIT OR COMMIT THE VIOLENT ACTS
3 CHARGED, THEN --" ET CETERA.

4 THE WORDS "CONSPIRE TO COMMIT" DO NOT BELONG WITH
5 RESPECT TO COUNT THREE OF THE INDICTMENT, AND THAT'S WHAT THIS.
6 THE PROBLEM THAT WE'RE WORRIED ABOUT AND THE CONFUSION IS THAT
7 THE 1959 COUNT, WHICH IS A SUBSTANTIVE CRIME, WHICH MR. MATTA
8 IS CHARGED WITH AS AN AIDER AND ABETTOR, DIFFERS SUBSTANTIALLY
9 FROM THE COUNT FIVE, WHICH IS THE CONSPIRACY OF -- A DULY
10 CHARGED CONSPIRACY TO KIDNAP THE AGENT.

11 THAT'S A VERY DIFFERENT SET OF CIRCUMSTANCES. ONE IS
12 A CLEAR CONSPIRACY --

13 THE COURT: I'M HAVING GREAT DIFFICULTY FOLLOWING
14 YOUR ARGUMENT, MR. STOLAR.

15 MR. STOLAR: YOUR HONOR, THE ARGUMENT IS THAT WITH
16 RESPECT TO COUNT --

17 THE COURT: IF THIS RELATES TO THE DISMISSAL OF THE
18 ORIGINAL CONSPIRACY IN COUNT THREE --

19 MR. STOLAR: YES, IT DOES.

20 THE COURT: -- THAT IT WAS DUPLICATIVE --

21 MR. STOLAR: I NEVER AGREED TO THAT.

22 THE COURT: IT WAS MY UNDERSTANDING THAT EVERYBODY
23 DID.

24 MR. STOLAR: I CERTAINLY DID NOT AGREE TO THAT.

25 THE COURT: YOU DID NOT OBJECT TO IT.

28-22

1 MR. STOLAR: HERE IS THE PROBLEM. WHAT IS THE
2 SENTENCE GOING TO BE IF SOMEBODY IS CONVICTED UNDER 1959? IS
3 IT A 20-YEAR SENTENCE OR A 5-YEAR SENTENCE? 371 IS A FIVE-YEAR
4 CRIME.

5 THE COURT: THE SENTENCE IS PROVIDED BY THE STATUTE.

6 MR. STOLAR: BUT 371 PROVIDES FOR A FIVE-YEAR
7 SENTENCE. IF IT IS A CONSPIRACY TO VIOLATE 1959 --

8 THE COURT: IF IT IS A CONSPIRACY TO VIOLATE 1959,
9 THE PENALTY UNDER 1959 WOULD BE APPLICABLE.

10 MR. STOLAR: EXCEPT THAT THE COUNT THAT WAS DISMISSED
11 WAS A 371 COUNT.

12 THE COURT: THAT IS CORRECT.

13 MR. STOLAR: NOT A 1959 COUNT.

14 THE COURT: ONLY BECAUSE IT WAS DUPLICATIVE AND
15 MULTIPLICITOUS.

16 WE ARE NOT IN THE BUSINESS, AS FAR AS WE'RE CONCERNED
17 AS DEFENSE COUNSEL, IN HELPING THE GOVERNMENT OUT IN TERMS OF
18 THE WAY THEY DRAFT INDICTMENTS - AND IT IS POORLY DRAFTED - AND
19 IT WORKS TO HOLD IT AGAINST OUR CLIENT.

20 THE COURT: WAS YOUR CLIENT NAMED IN THE FORMER COUNT
21 3?

22 MR. STOLAR: YES, HE WAS.

23 THE COURT: WELL, WE CAN REINSTATE IT.

24 MR. STOLAR: JUDGE, IF YOU WANT TO REINSTATE THE 371
25 COUNT, I INVITE YOU TO DO SO. I DON'T AGREE WITH IT, BUT I

28-23

1 THINK THAT WILL RUN INTO PROBLEMS WITH THE NINTH CIRCUIT.

2 THE COURT: WHY DON'T YOU AGREE WITH IT?

3 MR. STOLAR: BECAUSE IT HAS BEEN DISMISSED AND WE'VE
4 GONE TO TRIAL ON NO SUBSTANTITIVE --

5 THE COURT: IT WAS DISMISSED ON THE CLEAR
6 UNDERSTANDING THAT THE CONSPIRACY WOULD BE PURSUED, AND THE
7 PROSECUTION FOR CONSPIRACY WOULD BE PURSUED UNDER SECTION 1959
8 BECAUSE THAT IS PART OF THAT STATUTE.

9 THAT WAS THE CLEAR UNDERSTANDING OF EVERYBODY,
10 INCLUDING YOU.

11 MR. STOLAR: NO, SIR.

12 THE COURT: YOU NEVER MADE ANY OBJECTION --

13 MR. STOLAR: I CERTAINLY DID. I MADE OBJECTION TO
14 THAT FROM THE BEGINNING, INCLUDING WHEN HE TALKED ABOUT
15 ADMITTING --

16 THE COURT: DO YOU HAVE A TRANSCRIPT SHOWING WHERE
17 YOU MADE AN OBJECTION?

18 MR. STOLAR: DO YOU REMEMBER THE ARGUMENT WE HAVE
19 RIGHT AT THE BEGINNING OF THE CASE ABOUT THE CO-CONSPIRATORS
20 AND THE CO-ENTERPRISE --

21 THE COURT: YES.

22 MR. STOLAR: WHAT I HAVE BEEN RAISING FROM THE
23 BEGINNING IS THAT THE CO-ENTERPRISER IS DIFFERENT THAN A
24 CO-CONSPIRATOR.

25 THE COURT: ONLY IN TERMS OF EVIDENTIARY RULINGS.

1 MR. STOLAR: AND ALSO IN TERMS OF WHAT IS CHARGED IN
2 THE INDICTMENT.

3 THE COURT: MR. MEDRANO OR CARLTON, WHICH ONE OF YOU
4 ON THIS?

5 MR. CARLTON: YES, I'LL RESPOND, YOUR HONOR, BRIEFLY.
6 I THINK THAT YOU HAVE STATED THE MATTER ABSOLUTELY THE WAY IT
7 HAPPENED.

8 THERE WAS A COUNT 3 CHARGING A CONSPIRACY TO VIOLATE
9 SECTION 1959. THAT WAS CHALLENGED AS BEING MULTIPLICITOUS
10 BECAUSE THE REFERENCE TO CONSPIRACY APPEARS IN THE ACT ITSELF.

11 WE OFFERED, IN ORDER TO RETAIN COUNT 3, TO STRIKE THE
12 REFERENCE TO SECTION 371, RECOGNIZING THAT THE CONSPIRACY
13 ALLEGATIONS ARE IN SECTION 1959. THAT WAS NOT ACCEPTABLE.
14 THEY STRUCK COUNT III OR COUNT III WAS STRICKEN WITH THE CLEAR
15 UNDERSTANDING THAT THE CONSPIRACY ALLEGATIONS WERE NECESSARILY
16 INCORPORATED INTO THE SUBSTANTIVE CHARGE AND SUBSTANTIVE
17 VIOLATION OF SECTION 1959.

18 THAT HAS BEEN CLEAR TO EVERY DEFENDANT IN THIS CASE
19 FROM THE DAY OF THAT HEARING, INCLUDING MR. STOLAR. NOW, THE
20 FACT THAT HE HAS NOT ACQUIESCED IN IT IS ONE THING, BUT THAT
21 HAS BEEN THE STATE OF THE PLEADINGS FROM THE DAY OF THAT
22 HEARING. AND THAT THERE IS NOTHING IN THE PLEADING AS IT
23 PRESENTLY EXISTS WHICH WOULD PRECLUDE THE GOVERNMENT FROM
24 PURSUING THE CONSPIRACY ALLEGATIONS.

25 IF MR. STOLAR CHOOSES TO --

28-25

1 THE COURT: I BELIEVE YOU JOINED IN THE MOTION TO
2 DISMISS COUNT 3.

3 MR. STOLAR: I CERTAINLY DID BECAUSE THE GOVERNMENT
4 PLEADED EXACTLY THE SAME THING. THEY PLEADED A CONSPIRACY
5 COUNT AND A SUBSEQUENT COUNT IN IDENTICAL LANGUAGE. THAT'S WHY
6 IT WAS DISMISSED. THE CONSPIRACY WITNESS --

7 THE COURT: I THINK WE HAVE HAD ENOUGH DISCUSSION
8 ABOUT THIS.

9 MR. STOLAR: ALL RIGHT. LET ME RAISE ONE OTHER --
10 WELL, THE SAME ARGUMENT WE PLEAD APPLIES THEN WITH RESPECT TO
11 WHAT YOU GRANTED THE ZUNO PROPOSED NUMBER 18 ON THE QUESTION OF
12 CONSPIRACY ON THAT. SO THAT IS DEALT WITH.

13 HAIR, CONSPIRACY, MULTIPLE ENTERPRISE, AND FINALLY, I
14 HAVE LOOKED AT THE CHARGE --

15 THE COURT: INCIDENTALLY, IF YOU WANT TO SUMBIT TO
16 THE COURT AN INSTRUCTION THAT YOU BELIEVE IS AN IMPROVEMENT ON
17 THESE THAT THE COURT HAS DRAFTED, YOU YOU MAY DO SO AND THE
18 COURT WILL CONSIDER IT.

19 MR. STOLAR: WHAT I WOULD BE SUBMITTING WOULD BE
20 SOMETHING THAT WOULD MERELY, AS I DID BEFORE, REMOVE THE WORDS
21 CONSPIRACY DEALING WITH THE 1959 COUNT, AND GIVEN THE COURT'S
22 RULING, I DON'T THINK IT'S -- I THINK IT IS AN EXERCISE THAT IS
23 NOT REALLY WORTH IT.

24 BUT IF YOU HAVE A COPY OF THE TRANSCRIPT OF THE PRIOR
25 CHARGE THAT YOU GAVE, AT THE BOTTOM OF PAGE 161 AND THE TOP OF

1 162, STARTING AT LINE 23 --

2 THE COURT: I DON'T HAVE THAT.

3 MR. STOLAR: IT IS IN A --

4 THE COURT: MAYBE I DO HAVE THAT.

5 MR. STOLAR: -- IT IS IN ZUNO'S PROPOSED
6 SUPPLEMENTAL.

7 THE COURT: YES. RIGHT.

8 MR. STOLAR: IF YOU LOOK AT THE BOTTOM OF 161, LINE
9 23 TO THE TOP OF 162, LINE 9, THE LANGUAGE THAT THE COURT
10 USES -- HAS USED -- STRIKES ME VERY MUCH AS LIKE AN ALLEN
11 CHARGE, AND A CHARGE WHICH IS DELIVERED TO A JURY IN THE EVENT
12 THE COURT BELIEVES THAT THERE IS SOME KIND OF A PROBLEM OR
13 THEY'RE CLOSE TO A DEADLOCK.

14 THE COURT: I MAY HAVE GIVEN THAT AT THE BEGINNING.

15 MR. STOLAR: YOU DID GIVE IT AT THE BEGINNING, WHICH
16 IS WHY I RAISE IT AND I WOULD ASK THE COURT NOT TO GIVE THAT IN
17 THIS PARTICULAR CASE.

18 THE COURT: HAS IT BEEN INDICATED IT WOULD BE GIVEN?

19 MR. STOLAR: I DON'T KNOW. I HAVE SEEN IT HERE. I
20 HAVE NOT SEEN ANY --

21 THE COURT: I DON'T THINK ANYONE HAS PROPOSED IT.

22 MR. STOLAR: OKAY. THEN I DON'T HAVE TO RAISE IT.

23 THE COURT: IT MIGHT NOT BE A BAD IDEA.

24 MR. STOLAR: WHY DON'T YOU LET THEM DELIBERATE FOR A
25 WHILE FIRST, YOUR HONOR.

1 THANK YOU. THAT'S ALL I HAVE.

2 THE COURT: ALL RIGHT. DOES ANYONE ELSE WISH TO BE
3 HEARD REGARDING THE INSTRUCTIONS?

4 MR. DI NICOLA: YES, YOUR HONOR. BRIEFLY.

5 THE COURT: INDICATE THE INSTRUCTION THAT ARE YOU
6 GOING TO BE -- INSTRUCTIONS THAT YOU HAVE PROPOSED?

7 MR. DI NICOLA: INITIALLY, YOUR HONOR, I JUST WANTED
8 TO MAKE THE COURT AWARE WE DID SUBMIT AN INSTRUCTION THAT THE
9 COURT REQUESTED.

10 THE COURT: I SAW IT. WE ARE LOOKING AT IT.
11 DO YOU HAVE IT HERE? LET ME SEE THAT.

12 MR. DI NICOLA: I BELIEVE THE CLERK HAS IT, YOUR
13 HONOR.

14 THE COURT: HAVE YOU GIVEN COUNSEL COPIES?

15 MR. DI NICOLA: YES, WE HAVE, YOUR HONOR.

16 THE COURT: HAVE ALL COUNSEL HAD AN OPPORTUNITY TO
17 READ THIS? DOES IT ACCURATELY SET FORTH THE COUNTS AND CHARGES
18 AGAINST EACH DEFENDANT?

19 MR. CARLTON: WELL, YOUR HONOR, I DON'T BELIEVE THE
20 PARAGRAPH DESCRIBING THE CHARGES AGAINST DEFENDANT MATTA AND
21 DEFENDANT ZUNO ARE ACCURATE.

22 YOU WILL NOTICE THAT IT LIMITS THE DESCRIPTION OF THE
23 CHARGE IN COUNT THREE WITH REGARD TO BOTH OF THOSE DEFENDANTS
24 TO CONSPIRACY TO COMMIT A VIOLENT ACT.

25 THE LANGUAGE OF THE CHARGE IS NOT SO LIMITED, AND

1 YOU'LL NOTICE ALSO THAT IN DESCRIBING THE COUNT III CHARGE
2 AGAINST DEFENDANT BERNABE, IT IS NOT LIMITED TO CONSPIRACY
3 HERE.

4 THE COURT: WHAT ARE THE WORDS OF THE STATUTE?
5 CAUSES, AIDS, ABETS, PROCURES --

6 MR. CARLTON: RIGHT. THAT IS THE CHARGE, YOUR HONOR.
7 IT IS NOT LIMITED TO CONSPIRACY, AND THAT WOULD BE OUR ONLY
8 OBJECTION TO THIS.

9 MR. STOLAR: COUNT 5 IS LIMITED TO CONSPIRACY.

10 MR. CARLTON: WE ARE TALKING ABOUT COUNT 3.

11 MR. STOLAR: COUNT 3, THE WORD "CONSPIRACY" DOES NOT
12 BELONG THERE. MR. MATTA IS NOT CHARGED WITH CONSPIRACY.

13 MR. CARLTON: WE JUST REOPENED THAT, MR. STOLAR.
14 INTENT THERE IS NECESSARILY INCLUDED.

15 MR. STOLAR: THE INDICTMENT CHARGES MR. MATTA WITH A
16 VIOLATION OF SECTION 1959. THIS SAYS MATTA BALLESTEROS IS
17 CHARGED IN COUNT 3 WITH CONSPIRACY TO COMMIT A VIOLENT ACT.
18 THAT IS NOT THE CHARGE.

19 THE COURT: I THINK MAYBE THIS WAS SIMPLY TO BE
20 DESCRIPTIVE AND NOT DETAILED INSTRUCTION ON THE LAW. HE IS
21 CHARGED WITH A VIOLENT ACT --

22 MR. STOLAR: IN AID OF RACKETEERING.

23 THE COURT: -- IN SUPPORT OF AN ENTERPRISE ENGAGED IN
24 RACKETEERING; IS THAT RIGHT?

25 MR. STOLAR: YES, SIR.

1 THE COURT: SO WE CAN STRIKE "CONSPIRACY".

2 MR. STOLAR: THANK YOU.

3 THE COURT: IT SIMPLY WAS FOR THE PURPOSE OF
4 INFORMING THE JURY WHAT THE CHARGES WERE.

5 MR. CARLTON: LIKEWISE, WITH REGARD TO MR. ZUNO, YOUR
6 HONOR?

7 THE COURT: YES, IN ALL THOSE, IT SHOULD BE, I THINK,
8 CHANGED TO INDICATE JUST THE GENERAL NATURE OF THE OFFENSE.

9 MR. NICOLAYSEN: FOR MR. VASQUEZ, YOUR HONOR, THE TOP
10 PARAGRAPH SHOULD ALSO INCLUDE THE CHARGE THAT HE WAS A DIRECT
11 PARTICIPANT IN THE --

12 THE COURT: I'LL TELL YOU WHAT I'M GOING TO DO ON
13 THIS. I WANT YOU TO GET TOGETHER WITH WHOEVER DRAFTED IT AND
14 SEE IF YOU CAN'T MAKE THE CORRECTIONS THAT ARE NECESSARY.

15 I DIDN'T REALLY WANT IT ALL THIS DETAILED, BUT
16 ACTUALLY, THESE ARE NOT BAD. I THINK THEY CORRECTLY SET FORTH,
17 WITH THE CORRECTIONS THAT CAN MADE -- I THINK YOU SHOULD ALL
18 GET TOGETHER ON THIS.

19 THIS WE DON'T HAVE TO SPEND A LOT OF TIME ON. IT'S
20 BASICALLY TO INFORM THE JURY WHAT EACH DEFENDANT IS CHARGED
21 WITH IN A GENERAL WAY, NOT A SPECIFIC WAY.

22 MR. NICOLAYSEN: COULD WE VERBALLY COMMUNICATE THE
23 EDITS TO YOUR CLERK AND HAND WRITE THEM IN TO THE ORIGINALS
24 AND --

25 THE COURT: YOU CAN DO THAT AND THEN I WANT A

1 TYPEWRITTEN AMENDMENT SUBMITTED. WE HAVEN'T TIME TO DO YOUR
2 WORK FOR YOU.

3 MR. NICOLAYSEN: VERY WELL.

4 MR. DI NICOLA: YOUR HONOR, REFERENCING DEFENDANT
5 RUBEN ZUNO ARCE'S PROPOSED SUPPLEMENTAL JURY INSTRUCTION NUMBER
6 9, YOUR HONOR --

7 THE COURT: WHAT DOES THAT RELATE TO?

8 MR. DI NICOLA: THAT RELATES TO GOVERNMENT'S PRESENT
9 INTIMIDATION AND THE LIKE.

10 THE COURT: OH, YES.

11 MR. DI NICOLA: AND I THINK THE COURT INDICATED A
12 REWORDING OF THAT. WE WOULD RECOMMEND PERHAPS STRIKING THE
13 LAST PHRASE IN THE FIRST PARAGRAPH. AND IN THAT RESPECT, IT'S
14 THE FORM, WE BELIEVE, FROM DEVITT AND BLACKMAR. WE ENDED THE
15 FIRST PARAGRAPH "AFTER OTHER EVIDENCE IN THE CASE".

16 THE COURT: HERE IS WHAT I WOULD DO WITH THIS. I
17 WOULD STRIKE OUT "GOVERNMENT" AND SAY "EVIDENCE THAT A PARTY
18 ATTEMPTED TO PERSUADE A WITNESS TO TESTIFY FALSELY BY THREATS,
19 INTIMIDATION OR OTHER MEANS MAY BE CONSIDERED BY YOU, ALONG
20 WITH THE OTHER EVIDENCE IN THE CASE".

21 BUT YOU SEE, THE INSTRUCTION THAT YOU HAVE ATTEMPTED
22 TO PARAPHRASE HERE DEALS WITH THE DEFENDANT WHO HAS ATTEMPTED
23 TO DO THIS, AND THE INSTRUCTION SAYS THAT IT SHOWS A
24 CONSCIOUSNESS OF GUILT.

25 I SIMPLY, ON SECOND THOUGHT, DON'T THINK THIS SHOULD

28-31

1 BE GIVEN. I THINK YOU CAN ARGUE IT AND I DON'T THINK THAT IT
2 QUALIFIES AS A STATEMENT OF LAW. OF COURSE THEY CAN CONSIDER
3 ALL THE EVIDENCE THAT HAS BEEN PRESENTED IN THIS CASE,
4 INCLUDING ANY EVIDENCE THAT MIGHT SUGGEST THIS TYPE OF CONDUCT
5 HAS OCCURRED. SO I'LL STAND BY MY ORIGINAL RULING NOT TO GIVE
6 THIS.

7 MR. DI NICOLA: VERY WELL, YOUR HONOR. THEN IN THE
8 SAME SET, DEFENDANT'S PROPOSED INSTRUCTION NUMBER 11.

9 THE COURT: 11?

10 MR. DI NICOLA: YES, YOUR HONOR. WE WOULD JUST
11 SIMPLY SUGGEST TO THE COURT THAT THE ISSUE OF THE IDENTITY IS
12 THE ISSUE IN THE CASE AND THE INSTRUCTIONS ARE APPROPRIATE.

13 THE COURT: THEY NATURALLY HAVE TO PROVE THAT THE
14 DEFENDANT IS THE ONE WHO COMMITTED THE OFFENSE CHARGED, SO I
15 DON'T KNOW WHAT THIS CONTRIBUTES.

16 HERE, I PULLED ANOTHER INSTRUCTION, THE ELEMENTS OF
17 THE OFFENSE, IDENTITY CERTAINLY DOES WITHOUT SAYING. I JUST
18 DON'T THINK THIS IS NECESSARY. IT IS AN ATTEMPT TO INSERT A
19 LITTLE ARGUMENT IN THE CASE THAT THE IDENTIFICATION MAY BE
20 NOT -- IS NOT TO BE TRUSTED. THAT IS SOMETHING YOU CAN ARGUE
21 ABOUT, BUT IT NEED NOT BE SANCTIFIED BY AN INSTRUCTION.

22 MR. DI NICOLA: FINALLY, YOUR HONOR, WITH RESPECT TO
23 GOVERNMENT'S PROPOSED INSTRUCTION NUMBER 6, PRIOR DISCUSSION --

24 THE COURT: GOVERNMENT'S 6?

25 MR. DI NICOLA: YES. THE COURT SHOULD HAVE IT WITH

28-32

1 RESPECT TO 1959. WE WOULD SUBMIT, YOUR HONOR, THAT THE COURT'S
2 PREVIOUS RULING DISMISSING THE PRIOR COUNT, THE COURT
3 SPECIFICALLY ALLUDED TO THIS BEING A CONSPIRACY COUNT.

4 WE DON'T BELIEVE THE GOVERNMENT CAN NOW ELECT -- AND
5 THAT THE CHARGE HERE MUST BE A CONSPIRACY CHARGE.

6 THE COURT: ALL RIGHT. GOVERNMENT'S NUMBER 6 I HAVE
7 INDICATED WAS NOT TO BE GIVEN. WE HAVE PREPARED A SUBSTITUTE.
8 IS THAT WHAT YOU'RE ARGUING ABOUT?

9 MR. DI NICOLA: YES, YOUR HONOR.

10 THE COURT: DO YOU HAVE THAT, MARK?

11 (INSTRUCTION TENDERED TO THE COURT BY THE LAW CLERK.)

12 THE COURT: NOW, WHAT IS THE PROBLEM WITH THIS?

13 MR. DI NICOLA: WELL, YOUR HONOR, WITH RESPECT TO THE
14 CHARGE ON THE 1959 COUNT, COUNT 3, WE WOULD SUBMIT THE
15 GOVERNMENT CANNOT CHARGE THE AIDING AND ABETTING AND THE OTHER
16 SUBSTANTIVE OFFENSES BECAUSE THEY'RE LIMITED TO THE CONSPIRACY
17 ALLEGATION.

18 THE COURT: WHY IS THAT?

19 MR. DI NICOLA: BASED UPON THE COURT'S PRIOR RULING
20 KNOCKING OUT THE OTHER COUNT ON MULTIPLICITOUS GROUNDS --

21 THE COURT: THE OTHER COUNT WAS THE STRAIGHT
22 CONSPIRACY COUNT, BECAUSE CONSPIRACY IS ONE OF THE BASES
23 ALLEGED IN THE 1959 STATUTE SO THEY MAY PURSUE CONSPIRACY.

24 WHY CAN'T THEY PURSUE THE OTHER ITEMS IN THERE,
25 AIDING AND ABETTING OR OTHER --

1 I DON'T THINK THAT ANY CHANGE IS WARRANTED, COUNSEL,
2 ON THAT.

3 MR. DI NICOLA: WE UNDERSTOOD THE COURT'S PRIOR
4 RULING NOT TO READ SECTIONS IN 1959 DISJUNCTIVELY, BUT
5 RATHER --

6 THE COURT: MY PRIOR RULING RELATED ONLY TO WHETHER
7 OR NOT THE GOVERNMENT COULD SEPARATELY CHARGE A CONSPIRACY TO
8 VIOLATE THIS STATUTE. I SAID THEY COULD NOT BECAUSE THE
9 STATUTE ITSELF CONTAINS AN ELEMENT FOR CONSPIRACY.

10 CONSPIRACY TO VIOLATE THE STATUTE IS ALREADY INCLUDED
11 IN THE STATUTE; THEREFORE, YOU DO NOT NEED A SEPARATE
12 CONSPIRACY COUNT. I DID NOT SAY THE GOVERNMENT COULD NOT ALSO
13 PURSUE OTHER THEORIES, NOR WAS IT MY INTENTION TO DO SO.

14 MR. DI NICOLA: VERY WELL, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 MR. STOLAR: YOUR HONOR, THAT'S PRECISELY THE
17 PROBLEM. I'M SORRY TO RAISE IT AGAIN.

18 WE HAVE ONE COUNT IN THIS INDICTMENT NOW, CHARGING AT
19 LEAST MR. MATTA, AND PERHAPS MR. ZUNO ARCE, WITH AIDING AND
20 ABETTING A 1959 CHARGE AND CONSPIRING TO VIOLATE 1959. A
21 SINGLE COUNT.

22 AND HOW DO YOU KNOW THE JURY IS NOT GOING TO GET
23 CONFUSED NOW WITH AIDING AND ABETTING AND CONSPIRACY?

24 THE COURT: BECAUSE WE HAVE PROVIDED THEM AN
25 INSTRUCTION IS TO MAKE SURE THEY DO NOT GET CONFUSED, AND WE

28-34

1 HAVE TOLD THE JURY THAT IF THEY -- WHICHEVER THEORY THEY ADOPT,
2 ALL 12 OF THEM MUST AGREE TO IT.

3 MR. STOLAR: SO ESSENTIALLY WE ARE SUBMITTING TWO
4 CHARGES TO THE JURY UNDER 1959. THEY CAN EITHER FIND HIM
5 GUILTY OF AIDING AND ABETTING A 1959 OR COMMITTING IT
6 SUBSTANTIVELY OR CONSPIRING TO VIOLATE A 1959, BUT THAT'S NOT
7 WHAT THE INDICTMENT CHARGES. THAT'S NOT WHAT THE INDICTMENT
8 CHARGES.

9 COUNT 4 OF THE OLD INDICTMENT IS CAPTIONED: "1959
10 AND 2". THAT'S ALL. IT TALKS ABOUT A SUBSTANTIVE VIOLATION OF
11 1959 AND AIDING AND ABETTING 1959. NO CONSPIRACY IS CHARGED IN
12 THAT COUNT. THE GOVERNMENT ELECTED TO CHARGE THE WAY THEY DID,
13 THEY CHARGED IT DUPLICITOUSLY. THEY HAD TO ELECT -- THE COURT
14 ELECTED BETWEEN A CONSPIRACY AND AN AIDING AND ABETTING THEORY.
15 THAT'S WHAT WE'VE GOT.

16 THE COURT: THIS WAS THE SAME ARGUMENT THAT WAS
17 ALREADY CONSIDERED.

18 MR. STOLAR: WELL, IT COMES ON THE NEW INSTRUCTION
19 THAT WAS DELIVERED THIS MORNING, I THINK, FROM YOUR CLERK,
20 WHICH WAS CALLED "SUPPLEMENTAL RE COUNT 3." YOU SAY:

21 "IN ORDER TO RETURN A GUILTY VERDICT TO THAT
22 DEFENDANT ON COUNT 3, YOU MUST FIND THE DEFENDANT WAS
23 A MEMBER OF THE CONSPIRACY AFTER THE LAW CAME INTO
24 EFFECT ON OCTOBER 12."

25 A MEMBER OF THE CONSPIRACY. WHAT CONSPIRACY IS

28-35

1 CHARGED?

2 (DISCUSSION HELD OFF THE RECORD BETWEEN THE COURT AND
3 HIS LAW CLERK.)

4 THE COURT: THE INSTRUCTION SAYS:

5 "IF THE ONLY RELEVANT CONDUCT THAT YOU FIND THE
6 DEFENDANT HAS ENGAGED IN IS CONSPIRING IN THE
7 COMMISSION OF THE VIOLENT ACTS, AS CHARGED" --,
8 THEN IT GOES ON TO STATE.

9 MR. STOLAR: I UNDERSTAND THAT, AND YOU KNOW MY
10 POSITION. I JUST WANT TO MAKE IT CLEAR IN EVERY WAY I CAN THAT
11 OUR POSITION IS THAT THE CONSPIRACY IS NOT SUFFICIENT TO
12 CONVICT MR. MATTA, ON THAT COUNT ANYWAY.

13 THE COURT: ALL RIGHT. ANYTHING ELSE?

14 MS. KELLY: WE WOULD JOIN IN THE COMMENTS OF COUNSEL
15 AND LODGE AN OBJECTION FOR THE RECORD, YOUR HONOR, TO THE
16 COURT'S REASONABLE DOUBT INSTRUCTION.

17 THE "FIRMLY CONVINCED", YOUR HONOR, SOUNDS COMPARABLE
18 TO THE CLEAR AND CONVINCING STANDARD THAT IS USED IN
19 ADMINISTRATIVE LAW. FOR THE RECORD, I'M JUST STATING THAT
20 OBJECTION, YOUR HONOR. WE WOULD PREFER DEVITT AND BLACKMAR.

21 THE COURT: I THINK WE'VE THEN SETTLED THE
22 INSTRUCTIONS, AND AFTER I RULE ON THIS MOTION TO REOPEN THE
23 EVIDENCE, WHICH I'LL DO IN A MOMENT, WE'LL BEGIN THE ARGUMENTS.

24 MR. MEZA: WE HAVE SOME RULE 29 --

25 MR. STOLAR: WE DO HAVE A RULE 29 MATTER.

1 THE COURT: LET'S HEAR THAT.

2 MR. STOLAR: I WOULD, FOR REASONS ADVANCED PREVIOUSLY
3 BY OTHER COUNSEL, INCLUDING SOME OF THOSE RAISED IN DEFENDANT
4 ZUNO'S WRITTEN MOTION, WE WOULD MOVE UNDER RULE 29 FOR A
5 JUDGMENT OF ACQUITTAL BY THE COURT.

6 BUT I WOULD ASK THE COURT TO RESERVE ON THIS
7 PARTICULAR RULE 29 UNTIL AFTER THE JURY RETURNS ITS VERDICT.
8 I'M NOT ASKING FOR A RULING NOW, BUT I THINK IT WOULD BE
9 APPROPRIATE FOR THE COURT TO RESERVE AND SEE WHAT HAPPENS WITH
10 RESPECT TO THE GOVERNMENT'S AND DEFENSE SUMMATIONS AND THE
11 DELIBERATIONS, AND NOT RULE ON IT RIGHT NOW.

12 THE COURT: I WILL RESERVE. I OFTEN DO THAT ANYWAY.
13 THE QUESTION IS NOT CLOSED.

14 MR. STOLAR: MAY I RAISE A COUPLE OF OTHER SORT OF
15 HOUSEKEEPING MATTERS WHILE I'M HERE?

16 THE COURT: YES.

17 MR. STOLAR: FIRST, MR. BURNS AND I HAVE SPOKEN ABOUT
18 THIS. WE WOULD REQUEST THAT THE COURT WOULD PERMIT US, WHEN WE
19 DO OUR SUMMATIONS, THAT WE BE PERMITTED TO SPLIT WITH RESPECT
20 TO THE FORENSIC EVIDENCE AND LET MR. BURNS ADDRESS THE FORENSIC
21 EVIDENCE, AND THAT WOULD BE THAT ASPECT OF SUMMATION.

22 THE COURT: AS LONG AS IT'S LIMITED AND THERE IS NO
23 DUPLICATION, I WILL PERMIT IT.

24 MR. STOLAR: THERE IS NO DUPLICATION.

25 THE COURT: AND THE JURY SHOULD BE TOLD THAT HE'S

28-37

1 GOING TO DISCUSS THAT EVIDENCE. BUT THE TIME CONSTRAINTS ARE
2 NOT EXPANDED BECAUSE

3 MR. STOLAR: I UNDERSTAND THAT.

4 SECOND, I WANT TO RAISE WITH THE COURT WHETHER OR NOT
5 I WOULD BE PERMITTED TO USE IN SUMMATION A DEMONSTRATIVE TYPE
6 OF EXHIBIT. IT IS THE EQUIVALENT OF A BLACKBOARD, IN A SENSE.
7 IT DEMONSTRATES SOMETHING THAT I WANT TO PROVIDE TO THE JURY,
8 SUCH AS THE PRESUMPTION OF INNOCENCE.

9 IT IS THIS ITEM, WHICH IS MY DEMONSTRATIVE PIECE OF
10 EVIDENCE FOR THE PRESUMPTION OF INNOCENCE, BECAUSE IF YOU LOOK
11 AT IT, IT LOOKS LIKE IT IS QUITE A DANGEROUS ELEMENT.

12 THE COURT: IT IS A HAND GRENADE; ISN'T IT?

13 MR. STOLAR: NO, JUDGE, IT'S A PAPER WEIGHT.

14 THE COURT: IT IS A PAPER WEIGHT?

15 MR. STOLAR: IF YOU LOOK AT IT, IT'S COMPLETELY
16 HOLLOW AND THERE IS NOTHING IN IT.

17 THE COURT: WHAT IS IT YOU INTEND TO DO WITH IT?

18 MR. STOLAR: I INTEND TO USE IT AS A VERY SERIOUS
19 DEMONSTRATION OF WHAT A PRESUMPTION OF INNOCENCE MEANS. AND
20 I'D LIKE TO DO THAT, WITH THE COURT'S PERMISSION.

21 MR. MEDRANO: YOUR HONOR, WE WOULD VEHEMENTLY OBJECT.

22 MR. STOLAR: OF COURSE.

23 MR. MEDRANO: THIS IS TERRIBLY PREJUDICIAL. A
24 GRENADE IN A COURTROOM, EVEN THOUGH IT'S NOT A REAL GRENADE --

25 MR. STOLAR: EVEN THOUGH WE'VE HAD TESTIMONY ABOUT

1 GRENADSES?

2 MR. MEDRANO: THIS IS INAPPROPRIATE, YOUR HONOR. WE
3 WOULD OBJECT TO THIS. IT'S PREJUDICIAL.

4 THE COURT: I DON'T SEE HOW IT'S PREJUDICIAL. IS IT
5 ILLUSTRATIVE OF SOME POINT?

6 MR. STOLAR: YES, SIR. IT'S ILLUSTRATIVE OF THE
7 PRESUMPTION OF INNOCENCE AND WHAT IT MEANS.

8 THE COURT: HOW SO?

9 MR. STOLAR: I'M GOING TO ASK THEM TO IMAGINE THIS IS
10 MR. MATTA. WHEN IT COMES OUT AND THEY SEE IT, THAT THEY
11 PRESUME IT IS INNOCENT. IT LOOKS -- OH, MY GOD, THAT'S THE
12 GUILTIEST THING IN THE WORLD. IT'S AN EXPLOSIVE HAND GRENADE.
13 I COULD DO IT ORALLY, I SUPPOSE.

14 BUT THEY CAN LOOK AT IT, IT HAS THE PIN IN IT AND IT
15 LOOKS LIKE THE REAL THING. AND YET, THEY HAVE TO PRESUME
16 SOMETHING LIKE THIS TO BE A NONEXPLOSIVE INNOCENT THING. CAN
17 THEY DO THAT?

18 THAT'S HOW IT IS DEMONSTRATED. IT REALLY DRAMATIZES
19 THE PRESUMPTION OF INNOCENCE.

20 MR. MEDRANO: YOUR HONOR, THIS WOULD BE COMPARABLE TO
21 ME BRINGING OUT CARO QUINTERO'S .45 CALIBER WITH THE INITIAL
22 AND THE --

23 MR. STOLAR: I EXPECT YOU WILL.

24 MR. MEDRANO: BUT NOT TO POINT IT AT ONE OF THE
25 DEFENDANTS. THIS IS ABSURD.

1 MR. STOLAR: I'M NOT GOING TO POINT IT AT ANYONE.

2 THE COURT: JUST A MOMENT.

3 COUNSEL MAY USE IT. I SEE NOTHING WRONG WITH THAT,
4 IT'S AN ILLUSTRATIVE PROP.

5 MR. MEDRANO: ALL I'D ASK, YOUR HONOR, IS IF HE'S
6 JUST GOING TO LET IT SIT THERE, FINE, BUT NOT SOMEHOW PUT IT
7 HERE IN FRONT OF ONE OF THE JURORS.

8 THE COURT: I EXPECT COUNSEL TO CONDUCT YOUR CLOSING
9 ARGUMENT FROM THE PODIUM.

10 MR. STOLAR: ABSOLUTELY. I KNOW.

11 THE COURT: I DON'T EXPECT A GREAT DEAL OF
12 DEMONSTRATIVENESS. YOU CAN USE IT FOR ILLUSTRATIVE PURPOSES
13 AND PUT IT AWAY.

14 MR. STOLAR: IS IT THE COURT'S PRACTICE TO SEND A SET
15 OF INSTRUCTIONS TO THE JURY, A WRITTEN SET OF INSTRUCTIONS?

16 THE COURT: YES.

17 MR. STOLAR: WOULD WE BE ALLOWED TO REVIEW IT AND
18 MAKE SURE EVERYTHING IS TOGETHER BEFORE IT GOES IN?

19 THE COURT: YES.

20 MR. STOLAR: AND FINALLY, WHAT IS THE COURT'S
21 PRACTICE WITH RESPECT TO WEEKEND DELIBERATIONS OR HOW LONG YOU
22 LET THE JURY GO?

23 THE COURT: I ORDINARILY WILL NOT HAVE WEEKEND
24 DELIBERATIONS.

25 MR. STOLAR: WOULD THE JURY OTHERWISE QUIT AROUND

28-40

1 4:30?

2 THE COURT: THEY BASICALLY KEEP THE SAME HOURS EXCEPT
3 THEY'LL BE WORKING ON MONDAYS.

4 MR. STOLAR: THANK YOU VERY MUCH.

5 MR. NICOLAYSEN: YOUR HONOR, I WANT TO JUST QUICKLY
6 ASK THE COURT'S PERMISSION TO OUTLINE THE FOUR ELEMENTS OF
7 SECTION 1959 SO THAT I CAN CREATE A VERY CLEAR FRAMEWORK FOR
8 THE JURY AS TO WHAT THE ISSUES ARE IN COUNTS 1 AND 2 AGAINST
9 JAVIER VASQUEZ.

10 IS THAT ACCEPTABLE TO THE COURT?

11 THE COURT: YOU MEAN IN DISCUSSING IT WITH THE JURY?

12 MR. NICOLAYSEN: THAT'S RIGHT. I DON'T WANT TO MAKE
13 IT SEEM AS THOUGH I'M GIVING AN INSTRUCTION. THAT IS NOT MY
14 INTENT.

15 THE COURT: THAT IS CORRECT.

16 MR. NICOLAYSEN: I WANT TO DESCRIBE THOSE ELEMENTS.

17 THE COURT: I EXPECT YOU TO REFER TO THE LAW WHERE
18 NECESSARY, BUT IT MUST BE DONE SO ACCURATELY. AND I DON'T
19 THINK THAT YOU SHOULD BE READING A LOT OF INSTRUCTIONS.

20 MR. NICOLAYSEN: THAT I'M NOT GOING TO DO, BUT I
21 WOULD LIKE TO QUICKLY OUTLINE THE FOUR ELEMENTS AND THEN
22 DIRECTLY FOCUS ON ONE OF THEM IN MY SUMMATION.

23 THE COURT: ALL RIGHT.

24 MR. NICOLAYSEN: THANK YOU.

25 THE COURT: NOW, WHAT WE HAVE LEFT IS THIS --

1 MR. BLANCARTE: WE ALSO HAVE A RULE 29, YOUR HONOR.

2 THE COURT: YES. COUNSEL.

3 MR. MEZA: FIRST, YOUR HONOR, WE WOULD RENEW THE
4 SEVERANCE MOTION THAT IS PREVIOUSLY HEARD AND SUBMITTED ON THE
5 PRIOR ARGUMENTS.

6 SECONDLY, WE WOULD MOVE PURSUANT TO RULE 29 TO
7 DISMISS COUNTS 3 THROUGH 8 AS THEY RELATE TO MR. BERNABE. I
8 WOULD ADOPT THE ARGUMENTS THAT WERE ADVANCED AT THE CLOSE OF
9 THE GOVERNMENT CASE AND JUST REITERATE, COUNT 3, THERE IS NO
10 SHOWING THAT MY CLIENT WAS A WILLFUL OR KNOWING PARTICIPANT IN
11 THE MURDERS, MUCH LESS THAT HE DID IT TO MAINTAIN OR INCREASE
12 HIS POSITION IN THE ENTERPRISE.

13 I WOULD ALSO ADOPT THAT SAME ARGUMENT AS IT RELATES
14 TO COUNT 4, WHICH PERTAINS TO THE VICTIM ZAVALA.

15 I MIGHT ALSO PARENTHETICALLY ADD THAT IT'S MIND
16 BOGGLING TO ME THAT MY CLIENT IS NOT CHARGED WITH THE PLANNING
17 OR THE PARTICIPATION OF THESE CRIMES, YET HE'S THE ONLY
18 DEFENDANT WHO'S CHARGED WITH THE VIOLENT ACT INVOLVING THE
19 AGENT ZAVALA -- THE PERSON ZAVALA.

20 THERE IS ABSOLUTELY NO EVIDENCE TO SHOW THAT MY
21 CLIENT ACTED INDEPENDENTLY OF ANYONE ELSE IN THIS GROUP. AND
22 YET, HE'S THE ONLY ONE THAT IS CHARGED WITH THE CRIME AGAINST
23 ZAVALA.

24 THE COURT: WHICH IS COUNT WHAT?

25 MR. MEZA: FOUR, YOUR HONOR.

1 THE COURT: COUNT 4.

2 MR. MEZA: IN RELATION TO THE CONSPIRACY TO KIDNAP, I
3 WOULD SUBMIT IT ON THE PREVIOUS ARGUMENT. AS IT RELATES TO
4 COUNT 6, WHICH IS A SUBSTANTIVE KIDNAPPING COUNT, THERE IS
5 NOTHING TO SHOW THAT HE PARTICIPATED IN THE KIDNAPPING, THE
6 ABDUCTION OR THE HOLDING OF AGENT CAMARENA.

7 THE GOVERNMENT LAST ARGUED THAT THE EVIDENCE SHOWED
8 THAT HE WAS STANDING THERE WITH A GUN, GUARDING AGENT CAMARENA.
9 AND THERE IS NO EVIDENCE -- THERE IS NO EVIDENCE THAT SUPPORTS
10 THAT ASSERTION.

11 AS IT RELATES TO COUNT 7, WHICH IS THE MURDER COUNT
12 PREDICATED ON THE FELONY MURDER THEORY, AGAIN I WOULD ADOPT THE
13 PREVIOUS ARGUMENT BEING, MAINLY, THAT THE MURDER MERGES WITH
14 THE UNDERLYING FELONY TO THE EXTENT THAT THE FELONY MURDER
15 DOCTRINE REQUIRES THE SHOWING, IN MY VIEW, THAT THE MURDER OR
16 THE HOMICIDE BE INDEPENDENT OF THE KIDNAPPING.

17 APPARENTLY, IF GOVERNMENT VERSION IS TO BE BELIEVED,
18 THE KIDNAPPING WAS FOR THE PURPOSE OF ULTIMATELY KILLING THE
19 AGENT, SO THERE IS NO INDEPENDENT ACTION IN THOSE TWO ACTS.

20 AS IT RELATES TO COUNT 8, WHICH IS THE ACCESSORY
21 COUNT, WE HAVE SUBMITTED A BRIEF, WHICH WAS INVITED BY THE
22 COURT. WE SUBMITTED THE IN THAT REGARD.

23 THE COURT: YES. I READ IT.

24 MR. MEZA: FINALLY, THE LAST REQUEST IS THAT WE WOULD
25 MOVE TO STRIKE CERTAIN ALLEGATIONS CONTAINED IN THE INDICTMENT;

1 SPECIFICALLY, IN THE GENERAL ALLEGATIONS SECTION. I BELIEVE IT
2 IS AT PAGE 4, THERE IS A PARAGRAPH 15, WHICH INDICATES THAT MR.
3 BERNABE WAS A STATE JUDICIAL POLICE OFFICER ASSIGNED TO THE
4 HOMICIDE SQUAD AT ALL TIMES MENTIONED IN THE INDICTMENT. THERE
5 IS CERTAINLY NO EVIDENCE TO THAT.

6 AND, IN FACT, THE EVIDENCE IS TO THE CONTRARY. HE
7 WAS NO LONGER A POLICE OFFICER, FOR TWO OR THREE YEARS, AT THE
8 TIMES ALLEGED IN THE INDICTMENT.

9 ALSO, AT PARAGRAPH 16 THERE IS A REFERENCE TO A RAUL
10 LOPEZ ALSO BEING A STATE JUDICIAL POLICE OFFICER ASSIGNED TO
11 THE HOMICIDE SQUAD AT THE TIMES MENTIONED IN THE INDICTMENT.
12 AND THERE IS CERTAINLY NO EVIDENCE FROM EITHER SIDE WHICH
13 INDICATES -- WHICH SUPPORTS THAT SPECIFIC ALLEGATION.

14 THE COURT: IS IT YOUR UNDERSTANDING THAT IF THERE IS
15 NO EVIDENCE OFFERED ON AN ALLEGATION, IT SHOULD BE STRICKEN?

16 MR. MEZA: I BELIEVE SO, PARTICULARLY IF IT'S GOING
17 TO GO TO THE JURY, YOUR HONOR, AND THERE HAS BEEN SOME
18 TESTIMONY CONCERNING --

19 THE COURT: WHAT DIFFERENCE DOES IT MAKE IF IT SAYS
20 THAT RAUL LOPEZ WAS AT ALL TIMES A JUDICIAL POLICE OFFICER?

21 MR. MEZA: IF IT'S READ IN CONJUNCTION WITH THE
22 PARAGRAPH BEFORE IT, THAT MY CLIENT WAS A STATE POLICE OFFICER
23 AT THE SAME TIME, AND THERE HAS BEEN SOME TESTIMONY THAT RAUL
24 LOPEZ WAS ARRESTED AND CONVICTED BACK IN '88, THEN I THINK
25 THERE IS A PREJUDICIAL OVERFLOW ON THE MATTER.

1 THE COURT: I DON'T RECALL ANY TESTIMONY.

2 MR. MEZA: YES, THERE WAS. THERE WAS, IN
3 RELATIONSHIP TO THE GOVERNMENT'S POSITION THAT OUR CLIENT WAS
4 ACTING VERY CAUTIOUSLY. AND OUR CLIENT MADE REFERENCE TO A
5 PERSON WHO HAD BEEN PREVIOUSLY ARRESTED FOR TALKING TO SOMEBODY
6 IN A BAR.

7 AND THEN ON CROSS-EXAMINATION, THE GOVERNMENT BROUGHT
8 OUT THAT IT WAS THIS PERSON NAMED RAUL LOPEZ. THAT'S HOW IT
9 CAME OUT.

10 THE COURT: ANYTHING FURTHER?

11 MR. MEZA: THERE ARE ADDITIONAL ALLEGATIONS THAT DEAL
12 WITH THAT SAME SUBJECT MATTER IN TERMS OF MY CLIENT BEING A
13 STATE JUDICIAL POLICE OFFICER AT THE TIME.

14 I WOULD ALSO OBJECT AND ASK TO STRIKE THE
15 CHARACTERIZATION TO THE GUADALAJARA NARCOTICS CARTEL. THERE IS
16 CERTAINLY NO EVIDENCE TO SUPPORT THAT; NOT ONE WITNESS HAS
17 MENTIONED A CARTEL IN THIS CASE. IF THEY WANT TO INTERPOSE THE
18 WORD ENTERPRISE OR CONSPIRACY, I CERTAINLY HAVE NO OBJECTION TO
19 THAT.

20 THERE IS NO EVIDENCE CONCERNING COUNT 5 OF THE
21 CONSPIRACY COUNTS, THE OVERT ACTS. NUMBER 6, AGAIN WHICH
22 REFERS TO MY CLIENT, AS A STATE POLICE OFFICER.

23 THERE IS ALSO A REFERENCE TO DR. MACHAIN. THERE IS
24 NO EVIDENCE IN THIS TRIAL ABOUT DR. MACHAIN. AND AGAIN THERE
25 IS A REFERENCE TO MR. LOPEZ, WHICH I WOULD ASK TO BE STRICKEN.

28-45

1 ADDITIONALLY, IN THE GENERAL ALLEGATIONS UNDER 18-B,
2 THERE IS A REFERENCE TO THE MACHINE GUNNING OF AGENT KNAPP'S
3 CAR. AND THE COURT SPECIFICALLY EXCLUDED EVIDENCE ON THAT
4 ISSUE.

5 ADDITIONALLY, MS. KELLY HAD A HOUSEKEEPING MATTER SHE
6 WANTED TO ADDRESS WITH THE COURT.

7 THE COURT: DO YOU WISH TO RESPONDS TO THESE?

8 MR. MEDRANO: JUST ON SOME OF THESE COURT MATTERS,
9 YOUR HONOR. ON THE MACHINE GUN, THAT EVIDENCE WAS STRICKEN.
10 HOWEVER, IN THE TORTURE TAPES AND THE TRANSCRIPTS, THERE IS A
11 REFERENCE TO THE MACHINE GUNNING OF THE D.E.A. AGENT'S CAR, AND
12 THAT CAR, IN PARTICULAR. SO THAT PARTICULAR MATTER SHOULD STAY
13 IN THE INDICTMENT.

14 THE REFERENCE TO THE CARTEL, YOUR HONOR -- IT IS A
15 TERM OF ART. YOU DON'T ACTUALLY HAVE TO HAVE A WITNESS SAY
16 GUADALAJARA NARCOTICS CARTEL. IT'S SIMPLY A DESCRIPTION OF THE
17 TYPE OF ENTERPRISE THAT EXISTED, AND I THINK IT IS FAIR GAME TO
18 LEAVE IT IN THE INDICTMENT.

19 IN ADDITION, COUNSEL HAD ADEQUATE TIME TO FILE SOME
20 SORT OF BRIEF IN SUPPORT OF HIS POSITION THAT ALLEGATIONS HAVE
21 TO BE PROVEN, OTHERWISE THEY'RE STRICKEN. I DON'T THINK THAT'S
22 THE LAW, BECAUSE FREQUENTLY THE INDICTMENTS GO IN IN THEIR
23 ENTIRETY, EVEN THOUGH YOU DON'T PROVE UP EVERY SINGLE ELEMENT
24 OR WORD THAT IS ALLEGED IN THE INDICTMENT. SO WE OBJECT TO
25 THESE VARIOUS OBJECTIONS BY DEFENSE COUNSEL.

1 THE COURT: WHAT ABOUT THE MOTION REGARDING ZAVALA,
2 COUNT 4?

3 MR. MEDRANO: THIS WAS RAISED AGAIN YESTERDAY, YOUR
4 HONOR. YOU WILL RECALL OUR POSITION IS THAT THERE IS
5 SIGNIFICANT FORENSIC EVIDENCE THAT PLACES, IN ADDITION TO
6 CAMARENA, ZAVALA AT THAT HOUSE. THE CARPET FIBERS, IN
7 PARTICULAR.

8 THE COURT: ALL RIGHT. BUT THIS MAN IS CHARGED WITH
9 COMMITTING A VIOLENT ACT, THE MURDER OF ZAVALA.

10 MR. MEDRANO: FOR THE FOLLOWING REASONS. THE
11 GOVERNMENT'S THEORY OF THE CASE AS TO BERNABE -- AND I ASSUME
12 THAT'S WHO YOU'RE ADDRESSING, YOUR HONOR -- IS THAT HE WAS AT
13 THAT LOPE DE VEGA WHEN CAMARENA WAS THERE. AND HE WAS THERE
14 EITHER AS AN INTERROGATOR OR BODYGUARD TO EITHER PROTECT
15 FONSECA AND CARO OR TO MAKE SURE THAT CAMARENA AND ANYONE ELSE
16 WHO WAS THERE DID NOT ESCAPE FROM LOPE DE VEGA.

17 SO THAT'S WHY THAT COUNT SHOULD STAY, YOUR HONOR,
18 BECAUSE THERE IS EVIDENCE CERTAINLY SUGGESTING THESE
19 INFERENCES.

20 THE COURT: THE ONLY EVIDENCE IS THE HAIR. IS THAT
21 IT? HAIR FOUND THERE PROVES THAT HE WAS THERE AND THAT THIS
22 DEFENDANT MAY HAVE KILLED HIM?

23 MR. MEDRANO: AND THE CARPET FIBERS, OF COURSE. AND,
24 OF COURSE, JUST THE GENERAL CIRCUMSTANCES OF ZAVALA
25 DISAPPEARING VIRTUALLY THE SAME DAY AND TIME AS CAMARENA DOES,

1 YOUR HONOR.

2 YOU HEARD HIS SON TESTIFY ALONG THOSE LINES, OF
3 COURSE.

4 THE COURT: WE HEARD THAT HE WAS KIDNAPPED AND KILLED
5 AND FOUND ALONG WITH AGENT CAMARENA.

6 MR. MEDRANO: HE WAS KIDNAPPED AT THE SAME TIME AND
7 HELD AT THE SAME TIME BECAUSE THE FORENSIC EVIDENCE ESTABLISHES
8 THAT THE BODIES TURN UP AT THE SAME TIME, THEY BOTH HAVE THE
9 SAME TYPE OF --

10 THE COURT: I UNDERSTAND THAT, BUT WHAT IS THE
11 EVIDENCE TO CONNECT THIS DEFENDANT WITH IT?

12 MR. MEDRANO: THE SAME EVIDENCE THAT CONNECTS HIM TO
13 CAMARENA; THE FACT THAT HE WAS AT THAT HOUSE, HIS OWN
14 ADMISSIONS, THE UNDERCOVER TAPES.

15 HE WAS THERE AS A GUARD TO KEEP PEOPLE AT THAT HOUSE
16 AGAINST THEIR WILL. THAT'S THE GOVERNMENT'S THEORY OF THE CASE
17 TO THE JURY.

18 MR. MEZA: YOUR HONOR, FIRST OF ALL, THAT THEORY
19 ISN'T SUPPORTED BY ANY OF THE EVIDENCE. SECONDLY --

20 THE COURT: I DID NOT INVITE ANY FURTHER RESPONSE. I
21 HAVE HEARD YOUR ARGUMENT. I WAS ASKING THE GOVERNMENT TO
22 RESPOND.

23 MR. MEZA: IF I COULD JUST COMMENT ON THE HEAD HAIRS,
24 YOUR HONOR?

25 THE COURT: ON THE WHAT?

28-48

12 1 MR. MEZA: HEAD HAIRS THAT WERE FOUND. ACCORDING TO
2 THE GOVERNMENT'S CHART, THE HEAD HAIRS THAT WERE FOUND WERE
3 ONLY FOUND ON ZAVALA'S CLOTHING. HIS OWN HEAD HAIRS WERE ONLY
4 FOUND ON HIS OWN CLOTHING, BUT THERE WERE NO HEAD HAIRS FOUND,
5 ACCORDING TO CHART, IN THE HOUSE AT 881.

6 MR. MEDRANO: OF COURSE, THE CARPET FIBERS ARE, YOUR
7 HONOR. THOSE ARE ON ZAVALA'S CLOTHING.

8 THE COURT: THE RULE 29 MOTION FOR THIS DEFENDANT IS
9 DENIED AND THE MOTIONS TO STRIKE ARE DENIED.

10 MR. BLANCARTE: YOUR HONOR, VERY BRIEFLY AS TO
11 DEFENDANT ZUNO ON THE RULE 29. FIRST, WE WOULD JOIN AND ADOPT
12 THE MOTION MADE BY DEFENDANT BERNA AS TO SEVERANCE, AND WE
13 WOULD ALSO MOVE TO STRIKE ALL CO-CONSPIRATOR'S STATEMENTS AS TO
14 MR. ZUNO FOR THE GOVERNMENT'S FAILURE TO PLACE HIM IN THE
15 ENTERPRISE.

16 MOVING ON TO RULE 29, THE GOVERNMENT HAS GOT STRAIGHT
17 AHEAD PLEADING PROBLEMS WITH COUNT 3 OF THE INDICTMENT, AND
18 PROOF PROBLEMS WITH COUNT 6.

19 ON COUNT 3, THEY PLEAD IN THE CONJUNCTIVE, AND THEY
20 HAVE OFFERED NO EVIDENCE WHATSOEVER AS TO MR. ZUNO BEING
21 INVOLVED IN ANY WAY, SHAPE OR FORM IN THE CONSPIRACY TO MURDER
22 ANYONE, MUCH LESS AGENT CAMARENA.

23 THE ONLY TESTIMONY THEY HAVE AND THE ONLY EVIDENCE
24 BEFORE THIS COURT IS THE STATEMENTS OF CERVANTES SANTOS, AND HE
25 IS VERY EXPLICIT. AND AS DISCREDITED AS WE MAY SUBMIT TO THE

1 COURT THAT CERVANTES IS, HE IS VERY EXPLICIT AS TO MEETINGS
2 WHERE ONLY THE KIDNAPPING WAS DISCUSSED AND NOTHING MORE.

3 THE ONLY MURDER TESTIMONY BEFORE THIS COURT IS
4 OFFERED BY GOVERNMENT WITNESS PLASCENCIA AGUILAR, AND HE SAYS
5 THAT THAT TOOK PLACE AT A DECEMBER MEETING WHERE HE
6 SPECIFICALLY TESTIFIED THAT MR. ZUNO WAS NOT PRESENT.

7 SO WE WOULD RESPECTFULLY ASK THAT THE COURT DISMISS
8 COUNT 3 FOR THOSE REASONS. MOVING ON TO COUNT 6, THAT COUNT
9 SPECIFICALLY REQUIRES IN THE LANGUAGE OF AIDING AND ABETTING
10 THAT SOME AFFIRMATIVE ACTION BE TAKEN BY THE ACCUSED IN ORDER
11 TO MOVE THEM INTO THE POSITION OF BEING GUILTY OF COUNT 6.
12 THERE IS NO EVIDENCE WHATSOEVER ON THE RECORD THAT MR. ZUNO AT
13 ANY TIME TOOK ANY AFFIRMATIVE ACT OR ANY OVERT ACT IN
14 FURTHERANCE OF COUNT 6, WHICH CHARGES HIM WITH AIDING AND
15 ABETTING, AND IN ESSENCE SAYS THAT HE WAS INVOLVED IN TAKING
16 AND HOLDING AGENT CAMARENA.

17 THE RECORD IS ABSOLUTELY BARE ON THAT ISSUE. AND FOR
18 THAT REASON, WE WOULD RESPECTFULLY SUBMIT THAT COUNT 6 SHOULD
19 BE DISMISSED ALSO, YOUR HONOR.

20 THE COURT: DO YOU WISH TO RESPOND HERE BRIEFLY.

21 MR. MEDRANO: BRIEFLY, YOUR HONOR. HE WAS AT THOSE
22 MEETINGS, ACCORDING TO CERVANTES. HE PARTICIPATED IN THE
23 MEETINGS, HE SPOKE AT THESE MEETINGS. HE SAID, "LET'S PICK
24 THIS GUY UP. LET'S ASK HIM QUESTIONS ABOUT GARDOQUI", THIS
25 GENERAL.

1 HE WAS INVOLVED IN THIS AND DOES NOT THEREAFTER
2 EITHER HAVE TO PULL THE TRIGGER OR PARTICIPATE IN THE TORTURE.
3 IT IS A PINKERTON THEORY, OBVIOUSLY, AND HE'S RESPONSIBLE FOR
4 WHAT EVERY MEMBER OF THIS CONSPIRACY COMMITTED DURING THE
5 CRIME.

6 THE COURT: ALL RIGHT. THE MOTION FOR SEVERANCE IS
7 DENIED. THE MOTION TO STRIKE IS DENIED, AND THE RULE 29
8 MOTIONS ARE ALSO DENIED.

9 MR. MEDRANO: FINALLY, YOUR HONOR, I ADVISE THE COURT
10 AND DEFENSE COUNSEL THAT DURING THE 5-MINUTE BREAK, WHILE WE
11 SET UP FOR CLOSING ARGUMENT, WE HAVE A FLIP CHART THAT WE
12 WELCOME DEFENSE COUNSEL TO SCRUTINIZE BEFORE WE USE IT IN OUR
13 CLOSING ARGUMENT.

14 THE COURT: ALL RIGHT.

15 MR. BLANCARTE: MAY I MAKE ONE COMMENT AS TO
16 COUNSEL'S STATEMENT ON WHAT MR. ZUNO SAID OR DID AT THE
17 MEETINGS?

18 VERY BRIEFLY, YOUR HONOR, EVEN IF WE TOOK AS TRUE
19 EVERYTHING THE GOVERNMENT SAID ABOUT MR. ZUNO'S PARTICIPATION,
20 IT WOULD STILL BE LIMITED TO THE KIDNAPPING ONLY AND NOT TO THE
21 MURDER.

22 SO EVEN TAKING THE GOVERNMENT'S BEST CASE, COUNT 3
23 WOULD HAVE TO GO, YOUR HONOR.

24 THE COURT: ALL RIGHT. THAT'S DENIED.

25 MS. KELLY: JUST ONE OTHER MATTER THAT I'D LIKE TO

28-51

1 BRING TO THE COURT'S ATTENTION, JUST FOR THE RECORD. YESTERDAY
2 MR. CARLTON AND I REACHED AN AGREEMENT ABOUT A REDACTION ON THE
3 EXHIBIT, THE JULY 25TH TRANSCRIPT ON EXHIBIT BBB, DEFENSE
4 EXHIBIT, AND EXHIBIT 165 FOR THE GOVERNMENT.

5 FOR THE RECORD, I WOULD JUST LIKE TO INDICATE THAT I
6 WOULD LIKE FURTHER REDACTION WITH RESPECT TO A STATEMENT THAT
7 MY CLIENT MADE THAT FONSECA AND OTHERS MAY ESCAPE FROM THE
8 JAIL, AND HE WOULD HELP THEM AGAIN IF HE RAN INTO THEM AGAIN.

9 AND THAT'S ONE, FOR THE RECORD, YOUR HONOR. I WOULD
10 LIKE THAT TO BE REDACTED AS IMPROPER 404(B), AND UNDULY
11 PREJUDICIAL UNDER RULE 403, YOUR HONOR.

12 THE COURT: THAT MOTION IS DENIED.

13 MS. KELLY: VERY WELL, YOUR HONOR. THEN THE FINAL
14 MATTER IS IN THE LAST PORTION OF THE TRANSCRIPT, THERE IS A
15 STATEMENT ABOUT TESTIFYING -- MY CLIENT'S TESTIMONY BEFORE THE
16 MEXICAN GOVERNMENT AND ABOUT BEING A SERVANT AND BEING BELIEVED
17 AND BEING GOOD AT TESTIFYING.

18 AND, YOUR HONOR, IN VIEW OF THAT, I WOULD RENEW THE
19 REQUEST TO ADMIT THE DECLARATION OF MY CLIENT TO THE MEXICAN
20 AUTHORITIES, YOUR HONOR, IN VIEW OF THE FACTS IN THIS
21 PARTICULAR PORTION OF THE TRANSCRIPT.

22 THE COURT: THAT'S DENIED. IT HAS BEEN DENIED BEFORE
23 AND THERE IS NO REASON TO CHANGE.

24 MS. KELLY: YES, YOUR HONOR. AND IN THE ALTERNATIVE,
25 TO EXCLUDE THAT PORTION OF THE TRANSCRIPT, WHICH I ASSUME IS

1 DENIED, AS WELL.

2 THE COURT: THAT'S DENIED AS WELL.

3 WELL TAKE A VERY SHORT RECESS.

4 (BRIEF RECESS TAKEN.)

5 (JURY NOT PRESENT.)

6 THE COURT: ON THE MOTION BY THE DEFENDANT TO ADMIT
7 ADDITIONAL EXHIBITS, THE COURT HAS READ AND CONSIDERED THE
8 MEMORANDUM OF POINTS AND AUTHORITIES THAT HAVE BEEN FILED BY
9 THE DEFENDANT IN SUPPORT OF THIS REQUEST, AND I THINK ITS
10 SOMETHING THE GOVERNMENT SHOULD RESPOND TO.

11 THERE ARE TWO THINGS ABOUT THIS THAT MAKE IT -- THAT
12 CAUSE THE COURT TO HAVE CONCERN. ONE IS THE REQUIREMENT OF THE
13 STATUTE THAT THERE BE EVIDENCE PRESENTED TO THE COURT THAT THIS
14 RECORDATION IS MADE TO A PUBLIC OFFICE PURSUANT TO THE
15 REQUIREMENT OF LAW. THAT IS NOT PRESENT HERE.

16 AND THE SECOND THING IS THAT, APPARENTLY, THE
17 INFORMATION CONTAINED IN THE DEATH CERTIFICATE WAS PROVIDED BY
18 THREE WITNESSES WHO ARE IDENTIFIED AS EMPLOYEES OF THE
19 DECEASED. AND WHETHER OR NOT THE CERTIFICATE OF DEATH MAY ONLY
20 BE RECEIVED TO ESTABLISH THE FACT OF DEATH OR WHETHER IT CAN
21 ALSO BE RECEIVED TO ESTABLISH OTHER FACTORS CONTAINED IN IT
22 THAT MAY HAVE BEEN -- THAT WERE REPORTED BY OTHER PEOPLE --
23 IN OTHER WORDS, IT IS A FORM OF DOUBLE HEARSAY.

24 SO I THINK WE CAN PROCEED WITH THE ARGUMENT AS LONG
25 AS WE DECIDE THIS BEFORE THE TIME THAT COUNSEL FOR THE

1 DEFENDANT ZUNO HAS TO ARGUE.

2 DO YOU AGREE WITH THAT?

3 MR. MEDRANO: THAT'S FAIR, YOUR HONOR. WE NEED AN
4 OPPORTUNITY TO RESEARCH THAT NINTH CIRCUIT CASE CITED BY
5 DEFENSE COUNSEL, AND ALSO TRY TO EMBELLISH SOME OF THE AREAS
6 THAT YOU JUST STATED.

7 MR. NICOLAYSEN: IF THE COURT PLEASE, ON BEHALF OF
8 JAVIER VASQUEZ, IT WOULD BE MY INTENTION TO MAKE REFERENCE IN
9 CLOSING THAT JORGE BARBA DIED IN NOVEMBER OF '84, THE REASON
10 BEING THAT PLASCENCIA IDENTIFIES JORGE BARBA AS HAVING BEEN AT
11 LA LANGOSTA IN JANUARY OF '85. I'LL BE GOING FIRST.

12 THE COURT: THE GOVERNMENT IS GOING FIRST.

13 MR. NICOLAYSEN: WELL, YOU MENTIONED THAT YOU WANTED
14 TO RESOLVE IT BEFORE DEFENSE COUNSEL FOR ZUNO SPEAKS IN
15 CLOSING.

16 THE COURT: WE'LL HAVE TO RESOLVE IT BEFORE THEN.
17 SO WE HAVE TO WORK ON IT FASTER.

18 MR. MEDRANO: THE ONLY THING THAT WE NEED A LITTLE
19 BIT OF TIME FOR IS TO FIND THAT NINTH CIRCUIT CASE, BECAUSE I'M
20 NOT SO SURE THAT IT STANDS FOR THE PROPOSITION CITED BY
21 COUNSEL.

22 THE COURT: I'M NOT SURE EITHER, BUT THAT ISN'T MY
23 MAIN CONCERN. THAT'S PURELY DISCRETIONARY, AS LONG AS THE
24 DISCRETION IS EXERCISED WIDELY, AS IT ALWAYS IS IN THIS COURT.

25 (COURTROOM LAUGHTER.)

28-54

1 MR. MEDRANO: WE CAN THINK ABOUT IT SOME MORE, YOUR
2 HONOR, AND MAYBE GIVE YOU A FEW MORE ARGUMENTS TO TRY TO KEEP
3 THE DOCUMENTS OUT.

4 THE COURT: LET'S TAKE A LOOK AT THE PERTINENT
5 STATUTES AND CONSIDER THOSE ISSUES THAT I'VE MADE. ONE IS THAT
6 THE REQUIREMENT OF THE STATUTE THAT THIS TYPE OF RECORDING BE
7 MADE TO A PUBLIC OFFICE PURSUANT TO THE REQUIREMENTS OF LAW --
8 THAT WAS THE PROBLEM WITH THE OTHER BUSINESS, THE OTHER
9 DOCUMENTS THAT WERE OFFERED. ONE OF THE PROBLEMS.

10 AND THE OTHER THING IS WHETHER OR NOT THE EXCEPTION
11 FOR RECEIPT OF A DEATH CERTIFICATE MAY BE ONLY RECEIVED TO
12 ESTABLISH A FACT OF DEATH OR WHETHER THE OTHER MATTERS THAT ARE
13 CONTAINED IN IT MAY ALSO BE RECEIVED FOR THE TRUTH OF THE
14 MATTERS STATED.

15 MR. MEDRANO: THAT IS OUR CONCERN, YOUR HONOR,
16 EXACTLY.

17 THE COURT: THEY CITE A 6TH CIRCUIT CASE HERE WHERE
18 THE ISSUE WAS CAUSE OF DEATH, APPARENTLY, AND THE TRIAL JUDGE
19 DELETED THE CAUSE OF DEATH, REDACTED IT AND RECEIVED THE
20 CERTIFICATE, BUT REDACTED THE CAUSE OF DEATH AND THAT WAS
21 REVERSED.

22 SO WE'LL PROCEED WITH THE ARGUMENT. WE'LL HEAR THE
23 GOVERNMENT'S ARGUMENT. IN THE MEANTIME, YOU CAN BEGIN WORKING
24 ON THAT.

25 MR. MEDRANO: VERY WELL, YOUR HONOR. IN TERMS OF --

28-55

1 JUST SO I'LL KNOW WHERE THE COURT IS HEADED, IN TERMS OF TIME,
2 DO YOU INTEND TO BREAK AT NOON OR --

3 THE COURT: IT DEPENDS. WE'LL SEE.

4 MR. MEDRANO: VERY WELL.

5 THE COURT: LET'S BRING THE JURY IN.

6 (JURY SUMMONED TO THE COURTROOM.)

7 THE COURT: GOOD MORNING. I APOLOGIZE FOR THE DELAY.
8 WE ARE NOW READY TO BEGIN THE ARGUMENT IN THIS CASE. BEFORE WE
9 DO, I WANT TO ADVISE THE JURY THAT THE STATEMENTS MADE BY
10 COUNSEL DURING THE ARGUMENTS ARE NOT EVIDENCE IN THIS CASE.

11 COUNSEL ARE PERMITTED TO DISCUSS WITH YOU THE
12 EVIDENCE AND TO SUGGEST TO YOU WHAT THEY BELIEVE IS HAS PROVED
13 OR WHAT IT SHOWS, BUT ULTIMATELY YOU HAVE TO MAKE YOUR OWN
14 DECISION, AND WHAT COUNSEL SAYS IS NOT BINDING ON YOU.

15 FURTHERMORE, IF THERE IS -- IF THE EVIDENCE IS NOT AS
16 COUNSEL SUGGESTS, THAT IS, IF YOU RECOLLECT THE EVIDENCE
17 DIFFERENTLY FROM THE WAY COUNSEL MAY SAY IT OR SUGGEST IT, THEN
18 YOU RELY ON YOUR OWN RECOLLECTION. YOU'RE NOT BOUND TO ACCEPT
19 ANY COUNSEL'S INTERPRETATION OF WHAT THE EVIDENCE IS.

20 ANY REFERENCE THAT WILL BE MADE BY COUNSEL TO THE LAW
21 THAT APPLIES TO THIS CASE, YOU SHOULD LISTEN TO IT AND CONSIDER
22 IT AS YOU SHOULD LISTEN AND CONSIDER THE ARGUMENT RELATING TO
23 THE EVIDENCE. BUT I WOULD CAUTION YOU THAT THE LAW OF THE CASE
24 WILL BE STATED TO YOU BY THE COURT WHEN THE ARGUMENT IS OVER.

25 AND IF THE LAW THAT THE COURT STATES SEEMS TO DIFFER

1 FROM WHAT COUNSEL HAS SAID, YOU WILL FOLLOW THE LAW THAT IS
2 STATED BY THE COURT AND DISREGARD ANY DIFFERENCE THAT MAY HAVE
3 APPEARED DURING THE ARGUMENT.

4 SO BASICALLY THIS IS NOT EVIDENCE THAT YOU ARE
5 HEARING, BUT IT IS AN ATTEMPT TO ASSIST YOU TO UNDERSTAND THE
6 CASE AND TO UNDERSTAND THE EVIDENCE AND TO UNDERSTAND THE
7 THEORY OF THE DEFENSE OR THE PROSECUTION IN THIS CASE.

8 YOU MAY PROCEED NOW FOR THE GOVERNMENT, MR. MEDRANO.
9 THE GOVERNMENT HAS THE OPPORTUNITY TO PRESENT THE OPENING
10 ARGUMENT, AND MR. MEDRANO WILL DO THAT NOW.

11
12 CLOSING ARGUMENT + ON BEHALF OF THE GOVERNMENT

13
14 MR. MEDRANO: THANK YOU, YOUR HONOR. MAY IT PLEASE
15 THE COURT, DEFENSE COUNSEL, LADIES AND GENTLEMEN OF THE JURY.
16 GOOD MORNING.

17 THE JURY: GOOD MORNING.

18 MR. MEDRANO: GUADALAJARA, JALISCO, MEXICO IN 1983 TO
19 1984, 1985. THIS WAS A MAJOR CITY IN THE REPUBLIC OF MEXICO,
20 LADIES AND GENTLEMEN, THAT WAS IN THE GRIPS OF MAJOR
21 INTERNATIONAL NARCOTICS TRAFFICKERS.

22 NOW, THESE DRUG TRAFFICKERS WERE POWERFUL MEN. THEY
23 WERE IMMENSELY WEALTHY, PROFOUNDLY VIOLENT, THEY DID WHATEVER
24 THEY WANTED WHENEVER THEY WANTED, AND THE REASON THEY WERE
25 ALLOWED TO DO THAT -- THE REASON THEY DID THAT IS BECAUSE THEY

1 BELIEVED THEMSELVES TO BE, LADIES AND GENTLEMEN, BEYOND THE
2 REACH OF THE LAW. AND IN THESE TURBULENT YEARS IN THE CITY OF
3 GUADALAJARA, AND IN FACT, IN OTHER PARTS OF THE REPUBLIC OF
4 MEXICO, THEY WERE BEYOND THE REACH OF THE LAW.

5 NOW, THIS NARCOTICS ENTERPRISE WAS FACILITATED AND
6 SUPPORTED BY CORRUPT MEXICAN LAW ENFORCEMENT OFFICIALS, NOT
7 ONLY IN GUADALAJARA, BUT THROUGHOUT THE REST OF THE REPUBLIC OF
8 MEXICO.

9 IN GUADALAJARA ALONE, VIRTUALLY EVERY MAJOR LAW
10 ENFORCEMENT AGENCY WAS CORRUPT. THE MEXICAN FEDERAL JUDICIAL
11 POLICE, THE M.F.J.P., THE DIRECTORATE OF FEDERAL SECURITY, THE
12 D.F.S., THE I.P.S., THE POLITICAL INVESTIGATIONS AGENCY, THE
13 STATE JUDICIAL POLICE -- INDEED, THE MILITARY.

14 AND THE TENTACLES OF THIS CORRUPTION, LADIES AND
15 GENTLEMEN, EXTENDED WELL BEYOND THE BOUNDARIES OF THE CITY OF
16 GUADALAJARA. IN FACT, IT EXTENDED TO THE HEART OF THE
17 GOVERNMENT. IT EXTENDED TO THE CAPITAL OF MEXICO CITY.

18 AND IN MEXICO CITY -- AND YOU HAVE HEARD TESTIMONY
19 ABOUT THIS -- THIS CORRUPTION TOUCHED, AMONG OTHERS, FIRST
20 PREMIER COMANDANTES, OF WHICH THERE ARE ONLY 20 IN THE ENTIRE
21 NATION. THE DIRECTOR OF INTERPOL, THE INTERNATIONAL POLICE
22 AGENCY, THE DIRECTOR OF THE M.F.J.P. IT WENT UP AS HIGH A
23 FORMER CABINET MEMBER, A MAN APPOINTED BY THE PRESIDENT OF THE
24 REPUBLIC OF MEXICO.

25 NOW, THIS ENTERPRISE, THIS NARCOTICS ENTERPRISE THAT

28-58

1 HAD ITS BASE IN GUADALAJARA, WAS A MULTI-HEADED MONSTER. IT
2 HAD LEADERS, IT HAD FACILITATORS AND IT HAD SOLDIERS.

3 AMONG THE LEADERS -- AND YOU HAVE HEARD TESTIMONY
4 ABOUT ALL THIS -- WERE PEOPLE THAT DEALT IN COCAINE, AS WELL AS
5 MARIJUANA, AND IN FACT, SOMETIMES THEY DEALT WITH BOTH.

6 YOU HAVE HEARD TESTIMONY THAT WITH REGARD TO COCAINE
7 TRAFFICKING BASED OUT OF GUADALAJARA, THAT INCLUDED FELIX
8 GALLARDO, AND THAT INCLUDED HIS PARTNER, JUAN RAMON MATTA
9 BALLESTEROS. THAT INCLUDED JUAN GILBERTO HERNANDEZ, AN
10 M.F.J.P. OFFICER, YOU MAY RECALL, WHO WAS ALSO INVOLVED IN
11 COCAINE.

12 MARIJUANA TRAFFICKING INCLUDED, AGAIN AMONG OTHERS,
13 JAVIER BARBA, THE OWNER OF THE FAMOUS LA QUINTA RESIDENCE THAT
14 YOU HAVE HEARD SO MUCH ABOUT.

15 IT INCLUDED RUBEN ZUNO ARCE, IT INCLUDE MANUEL
16 SALCIDO, ALIAS EL COCHI LOCO, THE CRAZY PIG. AND SOMETIMES YOU
17 HAD OVERLAP. YOU HAD PEOPLE WHO DEALT IN BOTH. YOU HAD CARO
18 QUINTERO, WHO DEALT IN COCAINE AND MARIJUANA, AND YOU HAD
19 ERNESTO FONSECA CARRILLO, WHO ALSO DEALT IN BOTH.

20 NONE OF THIS COULD HAVE HAPPENED WITHOUT THE
21 COOPERATION AND THE ASSISTANCE OF CORRUPT MEXICAN LAW
22 ENFORCEMENT OFFICIALS. AND THERE WERE A BEVY OF THESE PEOPLE,
23 BUT THEY INCLUDED, AMONG OTHERS, JAVIER GARCIA PANIAGUA. YOU
24 HEARD TESTIMONY. THE FORMER CABINET MEMBER, THE FORMER HEAD OF
25 THE P.R.I., THE POLITICAL PARTY IN MEXICO, THE CHIEF OF POLICE

1 FOR THE CITY OF MEXICO.

2 IT INCLUDED MANUEL IBARRA HERRERA, WHO WAS THE
3 DIRECTOR OF THE M.F.J.P., WHICH WAS THE FEDERAL AGENCY
4 COUNTERPART OF THE D.E.A./F.B.I. HERE IN THE UNITED STATES.

5 MIGUEL ALDANA IBARRA, HIS FIRST COUNSIN, THE
6 DIRECTOR, THE HEAD OF THE INTERPOL, THE INTERNATIONAL POLICE
7 AGENCY. IT INCLUDED ARMANDO PAVON REYES, A FIRST PREMIER
8 COMANDANTE, WHO YOU RECALL WAS APPOINTED BY BARBA -- AND
9 PERHAPS THIS IS ONE OF THE GREATEST IRONIES OF THIS CASE -- TO
10 HEAD THE MEXICAN INVESTIGATION INTO THE CIRCUMSTANCES
11 SURROUNDING THE ABDUCTION, TORTURE AND MURDER OF SPECIAL AGENT
12 ENRIQUE CAMARENA. AND THERE WERE OTHERS. AND WE'LL HEAR ABOUT
13 THEM IN THIS CLOSING.

14 BODYGUARDS: TWO OF THEM ARE IN THIS COURTROOM. YOU
15 HAVE JAVIER VASQUEZ VELASCO, YOU HAVE MR. BERNABE RAMIREZ. AND
16 THESE WERE ONE OF SEVERAL, TWO OF SEVERAL BODYGUARDS THAT
17 PROTECTED THE LEADERS. AND, IN FACT, THEY ALSO PROTECTED THE
18 CORRUPT OFFICIALS. THAT INCLUDED BERNABE, VASQUEZ, MANUEL
19 GODINEZ -- PARDON ME -- EZEQUIEL GODINEZ, WHO WAS ONE OF THE
20 MEN WHO RAN AROUND WITH THE INFAMOUS TIERRE LIBRE BROTHERS, THE
21 VASQUEZ BROTHERS.

22 IT INCLUDED THE OTHER VASQUEZ BROTHERS, THE BROTHER
23 OF JAVIER, ANTONIO, ELISEO, THEIR NEPHEW, ANTONIO, JUNIOR, AND
24 OTHER PEOPLE. THIS ENTERPRISE HAD MANY LEADERS, IT HAD MANY
25 BODYGUARDS, AND NONE OF THIS COULD HAVE HAPPENED, NONE OF THIS

28-60

1 WAS POSSIBLE WITHOUT THE ASSISTANCE AND PROTECTION OF LAW
2 ENFORCEMENT OFFICIALS IN THE REPUBLIC OF MEXICO.

3 NOW INTO THIS DEN OF WOLVES IN GUADALAJARA CAME THE
4 D.E.A. FOUR COURAGEOUS AGENTS MANNED THE GUADALAJARA D.E.A.
5 FIELD OFFICE. ONE OF THOSE WAS ENRIQUE CAMARENA.

6 NOW, THESE MEN HAD LIMITED RESOURCES. THESE MEN WERE
7 NOT ALLOWED TO MAKE ARRESTS. THESE MEN WERE NOT LEGALLY
8 PERMITTED TO CARRY FIREARMS, THEY COULD NOT OBTAIN OR EXECUTE
9 SEARCH WARRANTS. THEY DID THE BEST THEY COULD, AND THEY DID IT
10 WELL.

11 THEY DID SURVEILLANCE, THEY DEVELOPED AND RECRUITED
12 CONFIDENTIAL INFORMANTS. FROM THESE INFORMANTS THEY DEVELOPED
13 SIGNIFICANT INTELLIGENCE INFORMATION. AND FINALLY, WHEN IT WAS
14 NECESSARY, BECAUSE OTHERWISE NOTHING WOULD GET DONE OTHERWISE,
15 THESE D.E.A. AGENTS, INCLUDING CAMARENA, WOULD SHARE THIS
16 INTELLIGENCE INFORMATION WITH THEIR CORRUPT MEXICAN
17 COUNTERPARTS, HOPING AND PRAYING THAT THEY WOULD ACT TO SEIZE
18 AND ERADICATE MARIJUANA PLANTATIONS FOR QUANTITIES OF COCAINE.

19 SO THEY WORKED AND THEY WORKED VERY HARD, BUT
20 SOMETIMES WITH SOME HORRENDOUS AND TERRIFYING RESULTS -- THE
21 DEATH OF CAMARENA -- AND, IN FACT, POOR RESULTS FOR THOSE THAT
22 WERE UNFORTUNATELY MISTAKEN FOR D.E.A. AGENTS, ALBERTO RADELAT
23 AND JOHN WALKER.

24 ALBERTO RADELAT, A 32-YEAR-OLD YOUNG MAN, AN AVID
25 PHOTOGRAPHER, DECIDES TO VACATION FOR A PERIOD OF TIME AT IN

28-61

1 THE END OF DECEMBER OF '84, GOING INTO JANUARY OF 1985. HE HAS
2 A FRIEND AND THAT FRIEND'S NAME IS JOHN WALKER. HE STAYS WITH
3 JOHN WALKER.

4 MR. WALKER: MARRIED, TWO CHILDREN, IN THE SERVICE OF
5 HIS COUNTRY, SERVED IN VIETNAM, 1968 TO 1969, WAS A MACHINE
6 GUNNER FOR THE MARINES. HE STEPS ON A LAND MINE AND VIRTUALLY
7 BLOWS OFF HALF HIS LEG... BUT AFTER INTENSE REHABILITATION AND
8 AFTER A LOT OF HARD WORK, HE IS ABLE TO WALK AGAIN, ALTHOUGH
9 ADMITTEDLY WITH A LIMP.

10 HE RECEIVED, IF YOU WILLING RECALL, TWO PURPLE HEARTS
11 FOR THIS. AND JOHN WALKER, IN THE LATTER PART OF 1983, TAKES
12 HIS FAMILY TO MEXICO, NUMBER ONE, TO TRY TO WORK ON A MYSTERY
13 NOVEL; AND NUMBER 2, BECAUSE OF THE PESOS' DEVALUATION, THEY
14 CAN LIVE A LOT CHEAPER IN MEXICO. SO EVE WALKER, JOHN WALKER
15 AND THE TWO DAUGHTERS GO LIVE IN GUADALAJARA'S.

16 AND AFTER A WHILE, EVE WALKER RETURNS TO ST. PAUL
17 MINNESOTA BECAUSE OF THE POOR QUALITY OF THE SCHOOLS FOR THE
18 CHILDREN. AND JOHN WALKER REMAINS TO TRY TO FINISH THIS NOVEL.

19 AND WE KNOW NOW WHAT HAPPENS. ON JANUARY 30, JOHN
20 WALKER IS JOINED BY ALBERTO RADELAT TO GO OUT FOR A CELEBRATORY
21 DINNER, BECAUSE ALBERTO WAS GOING TO BE RETURNING BACK TO HIS
22 HOME IN FT. WORTH, TEXAS THE FOLLOWING DAY. WELL, THEY WERE
23 NEVER SEEN ALIVE AGAIN, AND WE KNOW WHAT HAPPENED IN LIGHT OF
24 THE TESTIMONY THAT YOU HAVE HEARD THROUGH THE GOVERNMENT
25 WITNESSES.

28-62

1 THE DAY OF JANUARY 30, 1985, HECTOR CERVANTES STANTOS
2 TESTIFIED FOR YOU THAT HE'S AT LA QUINTA, WHICH IS THE
3 RESIDENCE OF BARBA. AND SEVERAL OF THE TIERRA LIBRE BROTHERS
4 ARE THERE, INCLUDING JAVIER VASQUEZ VELASCO.

5 NOW AT SOME POINT, CARO QUINTERO CALLS THE HOUSE AND
6 ASKS FOR BARBA. BARBA IS IN THE SHOWER -- HECTOR CERVANTES
7 TOLD YOU THAT -- AND HE LEAVES A MESSAGE FOR BARBA THROUGH MR.
8 CERVANTES. TELL BARBA WE'RE GOING TO BE AT LA LANGOSTA, TO
9 COME JOIN US, IF HE WANTS.

10 BARBA GETS OUT OF THE SHOWER, CERVANTES TELLS HIM,
11 AND BARBA LEAVES TO GO TO LA LANGOSTA. MR. CERVANTES TOLD YOU
12 THAT HE TOOK SEVERAL OF HIS GUARDS WITH HIM, INCLUDING JAVIER
13 VASQUEZ VELASCO.

14 LATER THAT EVENING YOU WILL ALSO RECALL WHEN
15 CERVANTES TOLD YOU JAVIER BARBA RETURNS, ALONG WITH THE NEPHEW
16 OF THE DEFENDANT, ANTONIO VASQUEZ OCHOA, AND BOTH THESE MEN ARE
17 BLOODY FROM HEAD TO FOOT. BOOTS, PANTS, SHIRT, COAT, EVEN
18 THEIR FIREARMS.

19 JAVIER BARBA GIVES HIS 9 MILLIMETER BROWNING TO
20 CERVANTES TO CLEAN IT BECAUSE IT IS SO FULL OF BLOOD.
21 CERVANTEZ INQUIRES WHAT HAPPENED. YOU HEARD THE TESTIMONY.
22 BARBA REPLIES THAT THERE WERE THESE DAMNED GRINGOS THAT WERE
23 SPYING ON US AT THE RESTAURANT THAT WERE BEATEN. ONE OF THEM
24 IS NOW DEAD AND THE OTHER ONE STILL MAY BE ALIVE.

25 ANTONIO VASQUEZ, THE NEPHEW, CONFIRMS THAT AND HE

28-63

1 SAYS THE SAME THING TO CERVANTES.

2 THE NEXT DAY, LADIES AND GENTLEMEN, JAVIER VASQUEZ
3 GOES TO LA QUINTA LOOKING FOR BARBA. AND JAVIER VASQUEZ TELLS
4 MR. CERVANTES, "TELL BARBA THAT THE AMERICANS ARE DEAD, THAT
5 THEY WERE KILLED WITH ICE PICKS."

6 LET'S GO STRAIGHT TO THE RESTAURANT, BECAUSE WE HAVE
7 A WITNESS WHO WAS THERE. MR. ENRIQUE PLASCENCIA AGUILAR, THE
8 MAN WHO SERVED IN THE MILITARY AND SERVED WITH THE I.P.S.

9 AND ABOUT JANUARY OF 1985, YOU WILL RECALL, HE WAS
10 WORKING AS AN AGENT WITH THE I.P.S., WHICH IS AGAIN A POLITICAL
11 INVESTIGATION AGENCY IN THE REPUBLIC OF MEXICO.

12 NOW, MR. PLASCENCIA IDENTIFIED A PHOTOGRAPH OF JAVIER
13 VASQUEZ AS BEING THE MAN THAT HE SAW AT LA LANGOSTA. NOW, YOU
14 MAY RECALL HE STOOD UP, COULD NOT MAKE AN IN-COURT
15 IDENTIFICATION, AND THERE IS AN EXPLANATION FOR THAT. AND I
16 ASK YOU TO LOOK AT GOVERNMENT EXHIBIT 173. 173. SCRUTINIZE IT
17 CAREFULLY.

18 NUMBER 8 IS JAVIER VASQUEZ, THE DEFENDANT. THIS IS
19 HOW HE LOOKED AT ABOUT THE TIME OF THE INCIDENT, AND YOU'LL SEE
20 THAT HE LOOKS VERY MUCH DIFFERENT. BUT MR. PLASCENCIA TOLD YOU
21 HE HAD SEEN THIS MAN BEFORE. IN FACT, HE HAD CONTACT WITH HIM
22 REPEATEDLY. THIS IS THE MAN WHO HE SAW BEATING ON THE
23 AMERICANS.

24 MR. PLASCENCIA TELLS YOU AT ABOUT 2:00 HE'S GETTING
25 OFF DUTY WITH SIX OTHER COLLEAGUES OF HIS FROM THE I.P.S.,

28-64

1 INCLUDING LUIS GONZALES ONTIVEROS, WHO'S THE SUPERVISOR OF THAT
2 GROUP OF MEN, AND THEY'RE DRIVING IN A VAN.

3 THEY'RE GOING TO LA ESTANCIA HOTEL TO REST BECAUSE
4 THEY'RE COMING OFF DUTY. IT IS ABOUT 2:00.

5 GONZALEZ ONTIVEROS IS DRIVING, PARKS -- HERE WE HAVE
6 NUMBER ONE, THE VAN, LITERALLY IN FRONT OF THE ENTRANCE TO LA
7 LANGOSTA. AS THEY'RE WALKING PAST THE ENTRANCE TO THE
8 RESTAURANT TO HEAD UP TO THE HOTEL, LA ESTANCIA, THEY POKE
9 THEIR HEADS IN AND SEE CARO QUINTERO AND 40 TO 50 OTHER
10 NARCOTICS TRAFFICKERS, POLICE OFFICIALS AND BODYGUARDS THERE
11 EATING, DRINKING.

12 CARO INVITES THEM IN. THEY ENTER. CARO TELLS THE
13 WAITER, "SET THESE GUYS UP SOMEPLACE", AND THEY ARE. HERE, AT
14 NUMBER THREE, AT THIS TABLE, IS WHERE MR. PLASCENCIA'S GROUP IS
15 ESTABLISHED.

16 HERE, AT NUMBER TWO, IS THE TABLE WHERE CARO QUINTERO
17 AND OTHER HEAVY WEIGHTS WERE SITTING. AND YOU RECALL THE
18 TESTIMONY OF PLASCENCIA.

19 THE WAY PEOPLE WERE SITTING AT THIS RESTAURANT, TO
20 THE LEFT OF THIS RED LINE IS WHERE THE BOSSES SAT. TO THE
21 RIGHT OF THIS RED LINE IS WHERE THE BODYGUARDS SAT. AND IN
22 THIS GROUP HERE, ALONG WITH CARO QUINTERO, THERE WERE OTHER
23 HEAVY WEIGHTS.

24 FONSECA ARRIVES SHORTLY THEREAFTER. HE SITS IN THAT
25 AREA. JAVIER BARBARA IS THERE. JORGE BARBA, HIS BROTHER IS

28-65

1 ALSO THERE. JUAN GILBERTO HERNANDEZ, ET CETERA, ET CETERA.

2 7:00 COMES AROUND. PLASCENCIA AND HIS GROUP ARE
3 ORDERED BY GONZALES ONTIVEROS TO HEAD OUT. THEY WALK OUT OF
4 THE RESTAURANT, THEY GET BACK IN THE VAN, THE LAST ONE IN THE
5 VAN WHO CLOSES THE SLIDING DOOR IS PLASCENCIA.

6 AND AS HE'S DOING THAT, HE TURNS BACK IN THE
7 DIRECTION OF THE RESTAURANT AND SEES WHAT ARE CLEARLY TO HIM
8 NOT MEXICAN NATIONALS BECAUSE OF THE MANNER OF DRESS AND THE
9 COLOR OF THEIR SKIN -- HE CALLED THEM WHITE -- I SUBMIT TO YOU
10 THESE ARE THE TWO AMERICANS, JOHN WALKER AND ALBERTO RADELAT.

11 HE SEES THEM ENTER THE RESTAURANT, AND JUST AS THAT
12 VAN IS ABOUT TO PULL OUT, PLASCENCIA SEES ONE OF THE MEN AT
13 THESE SWINGING, SALOON-TYPE DOORS SUDDENLY APPEAR TO FALL BACK
14 INTO THE RESTAURANT. THIS RAISES THE CURIOSITY OF PLASCENCIA
15 AND HIS COLLEAGUES.

16 GONZALES SAYS, "LET'S GET OUT AND GO CHECK IT OUT."
17 THEY GO UP TO THE FRONT AND LOOK IN. PLASCENCIA HAS A VIEW OF
18 WHAT IS GOING ON INSIDE THE RESTAURANT, AND THIS IS WHAT HE
19 SAW. HE WAS VERY SPECIFIC ABOUT HIS TESTIMONY.

20 THERE ARE TWO MEN, NUMBER 4 HERE AND NUMBER 5.
21 NUMBER ONE, THE HEAD OF THE MAN IS POINTED TOWARD THE STORAGE
22 ROOM, AND THE OTHER MAN'S HEAD IS POINTED TOWARD THE ENTRANCE
23 WHERE I STOOD. THIS IS PLASCENCIA TALKING.

24 BOTH MEN ARE LIFTED CLOSE TO CHEST HIGH LEVEL.
25 THEY'RE BEING CARRIED AND BEATEN SIMULTANEOUSLY AND REPEATEDLY

1 BY A GROUP OF 10 TO 15 MEN.

2 IN THIS GROUP OF 10 TO 15 MEN ARE INCLUDED JAVIER
3 BARBA, HIS BROTHER JORGE BARBA, THE TIERRA LIBRE BROTHERS, HIS
4 BROTHER ANTONIO, ELISEO, AND THIS MAN EZEQUIEL GODINEZ, WHO'S
5 LIKE A MEMBER OF THE FAMILY BECAUSE HE'S ALWAYS WITH THE TIERRA
6 LIBRE BROTHERS. JUAN GILBERTO HERNANDEZ IS ALSO BEATING AND
7 CARRYING THE MEN.

8 REMEMBER WHAT PLASCENCIA TOLD YOU, BECAUSE THIS IS
9 IMPORTANT. BARBA HAS HIS GUN AND HE, WHILE CARRYING ONE OF THE
10 AMERICANS WITH HIS LEFT HAND, IS BEATING THE AMERICAN WITH HIS
11 GUN, WHICH IS IN HIS RIGHT HAND. AND HE'S BEATING HIM
12 FEROCIOUSLY.

13 WELL, THAT'S IMPORTANT BECAUSE REMEMBER WHAT
14 CERVANTES TOLD YOU. WHEN BARBA GOES BACK TO HIS HOUSE AT LA
15 QUINTA, HE'S BLOODY FROM HEAD TO FOOT AND HIS 9 MILLIMETER
16 BROWNING IS SO FULL OF BLOOD THAT CERVANTES HAD TO CLEAN IT.

17 THIS IS CORROBORATION FOR YOU, LADIES AND GENTLEMEN.
18 MERELY ONE EXAMPLE, BUT THERE ARE COUNTLESS THAT PERMEATE THIS
19 ENTIRE TRIAL. THEY'RE ABLE TO OBSERVE THIS FOR A SHORT PERIOD
20 OF TIME.

21 FINALLY, GONZALES ONTIVEROS GIVES THE ORDER TO HIS
22 MEN. "LET'S GO." THEY WALK OUT AND GET BACK INTO THE VAN.
23 THEY FILE INTO THE VAN, PLASCENCIA CLOSES THE DOOR AND THEY
24 LEAVE. THAT'S WHAT HAPPENED AT LA LANGOSTA ON JANUARY 30 OF
25 1985.

28-67

1 THERE IS NO DOUBT, TALKING IN TERMS OF CORROBORATION,
2 THAT LA LANGOSTA IS WHAT -- IS THE RESTAURANT WHERE THIS
3 OCCURRED. DO YOU REMEMBER THE TESTIMONY OF SPECIAL AGENT TOM
4 GONZALEZ? THIS WAS A MAN WHO WAS ON TEMPORARY DUTY DOING
5 SURVEILLANCE IN GUADALAJARA. DO YOU REMEMBER WHAT HE TOLD YOU
6 IN HIS TESTIMONY?

7 "OUR GOAL WAS TO DO SURVEILLANCE OF WHERE THE DRUG
8 TRAFFICKERS HUNG OUT. THAT INCLUDED HOTELS, HOUSES AND LA
9 LANGOSTA."

10 AND, IN FACT, THIS IS WHAT GOMEZ TOLD YOU, WE HAD
11 INTELLIGENCE INFORMATION THAT THE OWNER WAS MANUEL SALCIDO, EL
12 COCHI LOCO. WELL HE'S A MEMBER OF THIS ENTERPRISE, IF YOU WILL
13 RECALL. IN FACT, WE WERE WARNED, SAID MR. GOMEZ, TO SAY AWAY
14 FROM THIS AREA BECAUSE IT WAS SO PROFOUNDLY DANGEROUS THAT WE
15 WOULD BE THREATENED, IF NOT ENDANGERED, IF OUR IDENTITIES WERE
16 REVEALED.

17 THIS FURTHER CORROBORATES PLASCENCIA AND FURTHER
18 CORROBORATES CERVANTES. THERE IS NO DOUBT, BY THE WAY, THAT
19 THE REMAINS FOUND IN THE MIDDLE OF JUNE OF 1985 AT LA PRIMAVERA
20 PARK IN THE CITY OF GUADALAJARA WERE THE REMAINS OF ALBERTO
21 RADELAT AND OF MR. WALKER. AND WE KNOW THAT BECAUSE WE HAD
22 IDENTIFICATIONS OF THE REMAINS BY FAMILY MEMBERS.

23 YOU WILL RECALL MR. RADELAT, THE FATHER OF ALBERTO
24 RADELAT, WHO'S A PRACTICING PHYSICIAN IN FT. WORTH, TEXAS, CAME
25 HERE AND TESTIFIED FOR YOU THAT THAT WAS HIS SON. HE COULD

28-68

1 TELL BY CHILDHOOD INJURIES AND FRACTURES THAT HIS SON HAD
2 INCURRED WHEN HE WAS A KID, INCLUDING HE WRIST AND THE JAW.

3 IN FACT, THE JAW STILL HAD THE WIRE. HE COULD TELL
4 BY THE SIZE OF THE SKELETON; IT WAS FIVE-SEVEN AND A HALF.
5 FINALLY, THE CLOTHES, THE PLAID NIEMAN-MARCUS SHIRT, THE
6 SHARKSKIN BOOTS, THE JEWELRY FOUND IN THE REMAINS -- THAT WAS
7 ALBERTO RADELAT.

8 AND THERE IS NO DOUBT, BECAUSE THAT REMAINS OF
9 ALBERTO WAS FOUND WITH JOHN WALKER, THAT THE OTHER REMAINS WAS
10 ALSO THAT OF JOHN WALKER, BECAUSE EVE WALKER, THE WIDOW,
11 TESTIFIED FOR YOU.

12 IF YOU WILL RECALL, SHE DESCRIBED THAT ONE OF THE
13 EYES WAS THE SAME EYE COLOR AS JOHN WALKER'S, THAT THE REMAINS
14 HAD A TERRIBLE SHIN INJURY OR CALLUSING, WHICH IS IN THE EXACT
15 SAME PLACE WHERE JOHN WALKER HAD HAD WHEN HE WAS ALIVE, AGAIN
16 BECAUSE OF THE VIETNAM INJURY THAT HE HAD SUSTAINED.

17 AGAIN, SHE ALSO IDENTIFIED THE CLOTHES, THE JEANS AND
18 THE T-SHIRT AND NIKE TENNIS SHOES, WHICH WORE OUT BECAUSE OF
19 THE THE UNUSUAL WALK OF JOHN WALKER, WHICH WORE OUT IN A VERY
20 UNIQUE WAY.

21 DR. RADELAT ALSO TOLD YOU THAT THERE WAS A 5 TO 6
22 CENTIMETER DIAMETER HOLE IN THE SKULL OF JOHN WALKER.

23 LADIES AND GENTLEMEN, COUNTS 1 THROUGH 4 CHARGE THE
24 VARIOUS DEFENDANTS IN THIS CASE WITH VIOLATIONS OF STATUTE THAT
25 ESSENTIALLY STATES THAT YOU CANNOT COMMIT VIOLENT CRIMES IN AID

28-69

1 OF RACKETEERING, IN AN ENTERPRISE ENGAGED IN RACKETEERING. AND
2 THERE ARE VARIOUS ELEMENTS THAT YOU'LL NEED TO ESTABLISH TO
3 FIND THE DEFENDANTS GUILTY OF THESE PARTICULAR CHARGES.

4 I JUST WANT TO FLAG SOMETHING FOR YOU -- AN
5 ENTERPRISE -- BECAUSE THIS IS THE WORD IN THE STATUTE.

6 "AN ENTERPRISE DOES NOT HAVE TO BE A CORPORATION
7 WHERE YOU FILE DOCUMENTS WITH THE SECRETARY OF STATE
8 FOR THAT RESPECTIVE AREA, IT CAN BE ANY KIND OF
9 ASSOCIATION, WHETHER IT'S LEGAL OR NOT, THAT IS
10 ENGAGED IN A CONDUCT THAT AFFECTS INTERSTATE OR
11 FOREIGN COMMERCE."

12 AND LADIES AND GENTLEMEN, THAT IS WHAT THIS
13 ENTERPRISE WAS. BECAUSE IN THEIR NARCOTICS TRAFFICKING, IT
14 CROSSED INTERNATIONAL BOUNDARIES FROM MEXICO TO SOUTHERN
15 CALIFORNIA AND ELSEWHERE IN THE UNITED STATES.

16 ANOTHER DEFINITION I JUST WANT TO FLAG FOR YOU.
17 RACKETEERING ACTIVITY. IT IS A FANCY WAY OF SAYING THAT YOU
18 CAN'T ENGAGE OR DEAL IN NARCOTICS TRAFFICKING. THAT IS WHAT
19 RACKETEERING ACTIVITY IS. THAT IS WHAT THIS ENTERPRISE DID,
20 AND IT WAS PLAINLY AND UNEQUIVOCALLY ILLEGAL.

21 JOHN WALKER AND ALBERTO RADELAT WERE MURDERED ON
22 JANUARY 30, 1985. ONE WEEK LATER EXACTLY. WE KNOW NOW WHAT
23 HAPPENS TO SPECIAL AGENT CAMARENA, AND THE CONFIDENTIAL
24 INFORMANT WHO WORKED WITH HIM, MR. ALFREDO ZAVALA.

25 IN '85 YOU HAVE FOUR AGENTS IN THE GUADALAJARA

28-70

1 OFFICE. ONE OF THE STAR AGENTS IS MR. CAMARENA. YOU HAVE
2 HEARD TESTIMONY. HE WAS A HARD WORKER. HE WAS PERHAPS THE
3 MOST VISIBLE AGENT OUT OF THE GUADALAJARA OFFICE BECAUSE OF THE
4 WORK THAT HE DID.

5 AND FINALLY, HE WAS REASSIGNED, AND IN MARCH OF 1985,
6 A SHORT MONTH FROM THE TIME OF HIS ABDUCTION, HE WAS HEADED
7 BACK HOME. HE WAS COMING BACK TO THE STATES.

8 ALFREDO ZAVALA, AN INFORMANT THAT WORKED WITH
9 CAMARENA, HE WAS A PILOT FOR 15 YEARS WITH A GOVERNMENT AGENCY
10 IN MEXICO. AND WHAT ZAVALA DID WAS HE WOULD FLY CAMARENA AND
11 KUYKENDALL AROUND TO TRY TO LOCATE MARIJUANA PLANTATIONS. HE
12 WOULD PROVIDE MAPS AND DOCUMENTS TO CAMARENA AND OTHER AGENTS
13 TO ASSIST THEM IN THEIR INVESTIGATIONS.

14 AND ON FEBRUARY 5, YOU KNOW NOW THROUGH THE TESTIMONY
15 OF HIS SON, LUIS, THAT HE FLEW TO DURANGO ON BUSINESS AND HE
16 NEVER WAS SEEN AGAIN ALIVE IN GUADALAJARA.

17 ON FEBRUARY 7, YOU HAD TESTIMONY THAT CAMARENA GOES
18 TO WORK AT THE D.E.A. OFFICES IN THE U.S. EMBASSY, THE U.S.
19 CONSULATE IN THE CENTER OF GUADALAJARA. HE DRIVES A BLUE
20 TRUCK.

21 AT OR ABOUT 2:00 OR 2:15 HE TELLS SECRETARY MIRIAM
22 ANGULO, WHO TESTIFIED FOR YOU, THAT HE WAS GOING OUT TO LUNCH
23 TO JOIN HIS WIFE, AND IF HIS WIFE CALLED, TO TELL HER THAT HE
24 WAS ON HIS WAY. HE LEFT HIS GUN AND CREDENTIALS ON HIS DESK
25 AREA. HE IS NOT SEEN AGAIN.

28-71

1 THE FOLLOWING MORNING, FEBRUARY 8, THERE IS A FRANTIC
2 CALL TO AGENT KUYKENDALL, WHO'S THE RESIDENT AGENT IN CHARGE OF
3 THAT OFFICE FROM ANOTHER AGENT. EVIDENTLY, CAMARENA'S WIFE HAD
4 CALLED. CAMARENA NEVER MADE IT HOME. SHE WAS UPSET.

5 KUYKENDALL MOVES INTO ACTION. HE IMMEDIATELY GOES TO
6 WORK, CALLS IN HIS OTHER AGENTS OF THE GUADALAJARA OFFICE,
7 STARTS MAKING PHONE CALLS, SENDS OUT FEELERS, CHECKS WITH
8 INFORMANTS, BUT HE IS NO WHERE TO BE FOUND. BUT HE DOES FIND
9 THE BLUE TRUCK PARKED ACCROSS THE STREET AT THE RESTAURANT.
10 THERE WAS DEW ON IT, INDICATING THAT IT HAD BEEN LEFT THERE ALL
11 NIGHT.

12 THE ALARM SYSTEM WAS TURNED OFF. VERY UNUSUAL FOR
13 CAMARENA TO DO THAT, AGENT KUYKENDALL TOLD YOU. MOST
14 SURPRISINGLY, AND PERHAPS WHAT WORRIED KUYKENDALL THE MOST, WAS
15 THE GUN AND THE CREDENTIALS WERE STILL ON CAMARENA'S DESK,
16 SOMETHING CAMARENA NEVER DID.

17 AT ABOUT 4:00 ON THIS DATE, FEBRUARY 7TH, YOU KNOW
18 THAT LUIS ZAVALA FOUND KUYKENDALL AND ADVISED KUYKENDALL THAT
19 ZAVALA WAS NO WHERE TO BE FOUND. THEY COULDN'T FIND HIS FATHER
20 AND THEY HAD CHECKED WITH VARIOUS POLICE AGENCIES IN MEXICO AND
21 GUADALAJARA TO NO AVAIL.

22 FEBRUARY 9TH, MORE D.E.A. AGENTS ARE NOW ARRIVING IN
23 GUADALAJARA TO ASSIST WITH THE INVESTIGATION OF THE
24 DISAPPEARANCE OF AGENT CAMARENA.

25 AND AGAIN, AS I'VE INDICATED TO YOU, IRONICALLY,

28-72

1 MANUAL IBARRA, THE DIRECTOR OF THE M.F.J.P. WHO WAS PRESENT AT
2 THESE MEETINGS TO DISCUSS THE KIDNAPPING, APPOINTS ARMANDO
3 PAVON REYES, WHO WAS ALSO PRESENT AT THESE MEETINGS TO DISCUSS
4 CAMARENA, AND PAVON IS SUPPOSED TO HEAD UP THE MEXICAN
5 INVESTIGATION INTO THE DISAPPEARANCE OF A D.E.A. AGENT.

6 WELL, HE DOES THAT. HE DOES THAT IN HIS OWN WAY,
7 BECAUSE YOU KNOW WHAT HAPPENED. THERE WAS BOGGLING TESTIMONY.
8 ON FEBRUARY 9, LEYVA WAS THERE, KUYKENDALL WAS THERE. THEY ARE
9 TRYING TO MAKE THESE MEXICAN FEDERAL POLICE MOVE. LET'S DO
10 SOMETHING. LET'S SEARCH HOUSES. THESE DON'T ACT.

11 THE D.E.A. GIVES THEM INTELLIGENCE INFORMATION.
12 AGAIN, THEY DON'T ACT. FINALLY, ARMANDO PAVON REYES MARCHES
13 OUT OF HIS OFFICE AND BARKS OUT ORDERS TO A GROUP OF D.E.A.
14 AGENTS AND HIS PEOPLE, HIS M.F.J.P. AGENTS, "LET'S GO".

15 BY THE WAY, RECALL THAT PAVON DEMANDED THAT THE
16 D.E.A. RENT 10 CARS FOR HIM. I GUESS THEY DON'T HAVE CARS IN
17 GUADALAJARA TO ASSIST IN THIS INVESTIGATION.

18 THESE MEN GET INTO A CARAVAN OF CARS. THERE'S ABOUT
19 40 TO 50 AGENTS, INCLUDING THREE OR FOUR D.E.A. AGENTS,
20 INCLUDING SAL LEYVA, WHO TESTIFIED.

21 THEY GO IN A CARAVAN, THEY GO TO THE GUADALAJARA
22 AIRPORT. IT'S FEBRUARY 9, AND THEN THIS IS WHAT HAPPENS.

23 PAVON EXITS HIS CAR VIRTUALLY RUNNING. HE STARTS
24 RUNNING IN THE DIRECTION OF A HANGAR. HE BARKS OUT TO HIS
25 AGENTS "CORTEN CARTUCHO", CHAMBER A ROUND.

28-73

1 REMEMBER WHAT LEYVA TOLD YOU? IT WAS SOMETHING OUT
2 OF THE TWILIGHT ZONE. YOU COULD YOU HEAR ALL THESE RIFLES
3 GETTING READY TO CHAMBER A ROUND. HE RUNS IN THE DIRECTION OF
4 A JET.

5 AND WHAT DO WE FIND THERE? WE FIND CARO QUINTERO AND
6 BETWEEN FIVE AND EIGHT OF HIS BODYGUARDS. EVERY MAN THERE,
7 INCLUDING CARO, IS ARMED WITH AN AK-47 AUTOMATIC WEAPON. IT'S
8 LIKE A MACHINE GUN. YOU PULL THAT TRIGGER AND IT KEEPS FIRING.

9 THEY HAVE THESE ENORMOUS DRUMS. LEYVA HAD NEVER SEEN
10 ANYTHING LIKE THIS IN HIS ENTIRE LIFE. THESE ROUNDS COULD HOLD
11 100 ROUNDS. ONE OF THE BODYGUARDS STANDING DIRECTLY TO THE
12 RIGHT OF CARO QUINTERO WAS THAT MAN, BERNABE RAMIREZ. HE ALSO
13 HAS AN AK-47.

14 THERE IS A STAND OFF. IT WAS INCREDIBLY TENSE.
15 LEYVA HAD NIGHTMARES ABOUT THIS, YOU MAY RECALL. I GUESS IN
16 RETROSPECT IT SOUNDS FUNNY, BUT YOU KNOW IT ISN'T, BECAUSE IT
17 COULD HAVE BEEN INCREDIBLY TRAGIC IF ONE ROUND HAD BEEN FIRED.

18 THERE IS THIS CONFRONTATION. IT IS TENSE. PAVON AND
19 HIS MEN WITH THEIR AR-15 SEMI-AUTOMATIC WEAPONS -- THEY ARE
20 INCREDIBLY OUT GUNNED -- ARE POINTING THEIR GUNS AT CARO AND
21 HIS PEOPLE. BERNABE AND CARO ARE POINTING BACK WITH THEIR
22 AK-47S. BOTH SIDES ARE YELLING AT EACH OTHER. "PUT YOUR GUNS
23 DOWN. WHO IS IN CHARGE? NO, YOU PUT YOUR GUNS DOWN." DO YOU
24 REMEMBER THAT TESTIMONY?

25 FINALLY, CARO QUINTERO INQUIRES "WHO IS IN CHARGE

28-74

1 HERE?" PAVON PIPES UP, "I AM." PAVON GOES AND TALKS TO CARO
2 QUINTERO PRIVATELY. YOU CAN SEE THEM BUT YOU CAN'T HEAR THEM.
3 THAT'S WHAT LEYVA TOLD YOU.

4 THEY'RE TENSE AT FIRST, AND THEN SOMETHING HAPPENS.
5 CARO AND PAVON GIVE EACH OTHER -- WELL, THEY PUT THEIR ARM
6 AROUND EACH OTHER, AND THEN PAVON MARCHES OFF TO THE HANGAR
7 BELONGING TO THE M.F.J.P., FOLLOWED BY TWO OF HIS GUARDS AND
8 FOLLOWED BY LEYVA. PAVON DIDN'T KNOW THAT LEYVA WAS TAGGING
9 ALONG.

10 PAVON GOES INSIDE THE OFFICE AND PUTS TWO OF HIS
11 GUARDS OUTSIDE. PAVON GETS ON THE PHONE. LEYVA FOLLOWS ALONG.
12 PAVON DOESN'T KNOW HE'S THERE. LEYVA TOLD YOU PAVON IS ON THIS
13 PHONE GOING, "YES, SIR, YES, SIR" VERY DEFERENTIALLY. I
14 SUBMIT TO YOU THE MAN HE'S TALKING TO IS THIS MAN RIGHT HERE,
15 MANUEL IBARRA, BECAUSE NOTHING HAPPENS WITHOUT IBARRA BEING
16 APPRISED.

17 FINALLY, PAVON HANGS UP THE PHONE, TURNS AROUND, AND
18 THERE IS LEYVA. HE'S SHOCKED. HE DOESN'T EVEN TALK TO LEYVA.
19 HE WALKS RIGHT PAST HIM, WALKS AT A BRISK PACE AND LEAVES LEYVA
20 BEHIND, GOES BACK AND TALKS TO CARO QUINTERO AGAIN, WHO THIS
21 WHOLE TIME, BY THE WAY, IS SITTING ON THE STATION WAGON,
22 LEANING ON THE STATION WAGON WITH HIS GUN. HE HAS A GUARD OF
23 HIS WITH HIM WITH A SHOTGUN, AND HE'S THERE SMILING, WANTING TO
24 KNOW WHO IS IN CHARGE.

25 PAVON COMES BACK, MEETS AGAIN WITH PAVON REYES,

28-75

1 PRIVATELY THIS TIME, SORT OF TO THE REAR OF THIS LEAR JET WHICH
2 BELONGS TO CARO. AGAIN, THEY SPEAK ANIMATEDLY AND NOW,
3 REMEMBER WHAT LEYVA TOLD YOU?

4 SUDDENLY CARO'S FACE GOES FROM ONE OF TENSION TO
5 EXTREME RELAXATION. REMEMBER WHAT CARO TOLD YOU? LEYVA TOLD
6 YOU IT'S LIKE THEY WERE OLD FRIENDS.

7 CARO IS ALLOWED TO GET INTO THAT JET WITH MANY OF HIS
8 BODYGUARDS, AND AS THAT LEAR JET IS TAXIING AWAY, REMEMBER WHAT
9 HAPPENS? IT'S LIKE THE ULTIMATE SLAP IN THE FACE TO AGENTS
10 THAT ARE TRYING TO DO THEIR JOB AND TO FIND A FALLEN COMRADE.

11 CARO IS AT THE DOORWAY TO THIS JET, AND HE HAS A
12 BOTTLE OF CHAMPAGNE, AND HE'S TOASTING THE M.F.J.P. AGENTS AND
13 THE D.E.A. AND HE BASICALLY SAYS SOMETHING LIKE, "NEXT TIME, MY
14 CHILDREN, COME BACK WITH BETTER TOYS", REFERRING TO THE
15 SEMI-AUTOMATIC WEAPONS THAT THE D.E.A. AND THE M.F.J.P. AGENTS
16 HAVE. AND CARO IS ALLOWED TO LEAVE.

17 AND YOU KNOW WHAT HAPPENS. HE GOES TO COSTA RICA AND
18 LATER, IN APRIL, HE'S ARRESTED THERE. AND WHEN HE'S
19 ARRESTED -- THIS IS THE TESTIMONY OF SPECIAL AGENT SANDY
20 GONZALES -- THEY FIND GOVERNMENT EXHIBIT 72. REMEMBER THE
21 FANCY .45 CALIBER WITH "R-1"? THIS IS THE CALL SIGNAL FOR CARO
22 QUINTERO. MANNY TOLD YOU ABOUT THAT WHEN WAS IN GUADALAJARA
23 AND USING THE ELABORATE COMMUNICATION SYSTEM.

24 THIS IS THE GUN. TAKE A LOOK AT THIS. THIS IS THE
25 KIND OF WEAPONS THAT THESE PEOPLE HAD. HE ALSO IDENTIFIED FOR

28-76

1 YOU THIS. THIS IS THE BRACELET THAT SAL LEYVA TOLD YOU HE SAW
2 CARO QUINTERO WEARING AT THE AIRPORT. IT WAS ABOUT FOUR OR
3 FIVE INCHES WIDE, COMPLETELY COVERED IN DIAMONDS, AND AGAIN,
4 THE CALL NAME OR NUMBER "R-1".

5 BERNABE HELPED CARO ESCAPE. THAT'S WHAT HE'S CHARGED
6 WITH IN COUNT 8, AS AN ACCESSORY AFTER THE FACT. YOU HAVE TO
7 FIND TWO ELEMENTS TO CONVICT HIM OF THIS. ONE, THAT HE KNEW
8 THAT CARO QUINTERO HAD PARTICIPATED SOMEHOW IN THE KIDNAPPING
9 AND CAUSING THE MURDER OF ZAVALA.

10 NUMBER 2, THAT HE HELPED CARO ESCAPE. WHERE HE
11 HELPED CARO WITH THE INTENT TO PREVENT HIS APPREHENSION OR
12 ARREST BY LAW ENFORCEMENT OFFICIALS. THERE IS OVERWHELMING
13 EVIDENCE OF THAT FACT, AND I'LL DISCUSS IT IN A LITTLE BIT MORE
14 DETAIL LATER.

15 THE TESTIMONY OF LEYVA IS UNMITIGATED, CLEAR
16 TESTIMONY THAT THAT WAS THE MAN THAT WAS POINTING THE GUN AT
17 HIM. YOU ALSO HAVE BERNABE'S OWN WORDS ON THE UNDERCOVER TAPES
18 WITH AGENT BERRELLEZ WHERE HE OWNS UP AND ADMITS TO BEING
19 THERE.

20 NOW, A PECULIAR THING IS HAPPENING IN GUADALAJARA AT
21 OR ABOUT THIS TIME, FEBRUARY 8, 9, 10, ET CETERA. EVERYBODY IS
22 GETTING OUT OF TOWN. BY "EVERYBODY", I MEAN THE NARCOTICS
23 TRAFFICKERS.

24 CARO GOT THE HELL OUT OF THERE. YOU KNOW FONSECA
25 FLED ALSO BECAUSE YOU HEARD TESTIMONY TO THAT EFFECT. AND YOU

28-77

1 KNOW WHO ELSE FLED? MATTA BALLESTEROS. BUT THE DAY BEFORE HE
2 GETS OUT OF TOWN, AGENTS TESTIFIED FOR YOU THAT THEY GO ALONG
3 WITH M.F.J.P. OFFICIALS, AFTER ASKING REPEATEDLY THAT THEY DO
4 THIS -- TO GO TO A HOUSE OF GALLARDO.

5 AND WHEN THEY'RE THERE, YOU HEARD TWO AGENTS TESTIFY
6 ABOUT THIS. AT THE HOUSE OF GALLARDO, THEY FIND SOME VERY
7 INTERESTING THINGS. EXHIBIT 63, A PHOTOGRAPH -- AND THIS IS IN
8 THE HOUSE OF GALLARDO IN THE LIBRARY. THERE IS CAMARENA.

9 THEY ALSO FIND, VIRTUALLY RIGHT NEXT TO IT, I THINK
10 ON THE SHELF, EXHIBIT 65, A PHOTO OF TWO MEN STANDING IN FRONT
11 OF A ROLLS ROYCE, AND THE TWO MEN ARE MATTA BALLESTEROS AND
12 FELIX GALLARDO.

13 FEBRUARY 12TH. IT'S PICKING UP. SURVEILLANCE IS
14 BEING CONDUCTED BECAUSE THE D.E.A. DOES NOT KNOW WHERE THEIR
15 FALLEN COLLEAGUE IS. THEY'RE LOOKING FOR HIM, SO THEY DO
16 SURVEILLANCE. AND YOU HEARD SEVERAL AGENTS TESTIFY ABOUT WHAT
17 HAPPENS ON FEBRUARY 12 AT THE PLAZA DEL SOL HOTEL.

18 FIRST, MR. TERRAZAS, A SPECIAL AGENT. REMEMBER WHAT
19 HE TOLD YOU? THIS IS INTERESTING AND I WANT TO FLAG IT FOR
20 YOU.

21 HE'S OUT THERE DOING SURVEILLANCE OUTSIDE THE PLAZA
22 HOTEL. HE'S WALKING AROUND AND SEES ALL THESE ARMED BODYGUARDS
23 BECAUSE THEY HAVE BULGES, OR YOU CAN PLAINLY SEE THE WEAPON.
24 THEY DON'T NOTICE HIM. THEY DON'T PAY ATTENTION TO HIM.

25 TERRAZAS IS GOING AROUND DOING HIS BUSINESS,

28-78

1 SURVEILLANCE. THEN HE'S CALLED BACK TO M.F.J.P. HEADQUARTERS
2 TO MEET WITH ARMANDO PAVON REYES AND OTHER AGENTS TO DISCUSS
3 STRATEGY.

4 THEN IT'S DECIDED THAT A RADIO IS NEEDED BACK AT THE
5 HOTEL. TERRAZAS VOLUNTEERS TO TAKE IT. BUT {BEFORE|ABOVE} HE
6 TAKES IT, PAVON REYES LEAVES THE ROOM, AND HE'S A FIRST PREMIER
7 COMANDANTE WITH THE M.F.J.P., GOES TO AN OFFICE -- DOESN'T KNOW
8 THAT TERRAZAS IS BEHIND HIM. HE GETS ON THE PHONE AND TURNS
9 AROUND AND HE'S SHOCKED TO SEE TERRAZAS, AND HE CLOSSES THE DOOR
10 IN HIS FACE.

11 THEREAFTER, TERRAZAS GOES BACK TO THE HOTEL TO DO
12 CONTINUED SURVEILLANCE, AND WHAT HAPPENS NOW? A MAN WHO HAD
13 NOT BEEN NOTICED PREVIOUSLY, HIS IDENTITY IS NOW VIRTUALLY
14 BURNED. AS SOON AS HE HIT THE PAVEMENT OUTSIDE OF THE PLAZA
15 DEL SOL HOTEL, THOSE MEXICAN GUARDS OF MATTA AND THE DRUG
16 DEALERS SPOTTED HIM IMMEDIATELY. THEY STARTED FOLLOWING HIM.
17 IN FACT, THEY POINT OUT TERRAZAS TO SOME OTHER BODYGUARDS. HIS
18 COVER IS BURNED.

19 YOU KNOW WHY THIS HAPPENED. PUT TWO AND TWO
20 TOGETHER. ARMANDO PAVON REYES WHO LEFT CARO QUINTERO TO ALLOW
21 CARO QUINTERO TO ESCAPE -- ARMANDO PAVON REYES, WHO WAS AT A
22 MEETING ALONG WITH MATTA WHERE THEY DISCUSSED THE KIDNAPPING OF
23 SPECIAL AGENT CAMARENA -- THAT MAN, PAVON REYES, SHOT IN A CALL
24 TO THE HOTEL, BECAUSE SOON THEREAFTER MATTA IS SEEN LEAVING.

25 AND YOU KNOW HE'S SEEN LEAVING, BECAUSE TWO AGENTS

28-79

1 TOLD YOU ABOUT THIS. SAL LEYVA AND MR. AGUILAR. THEY WERE
2 BOTH THERE AT THE HOTEL AND IN THE LOBBY. BOTH AGUILAR AND
3 LEYVA POSITIVELY IDENTIFIED THIS MAN RIGHT HERE AS THE MAN WHO
4 WAS CHECKING OUT AT 10:30, BY THE WAY, WHICH WAS ANOTHER WEIRD
5 THING. WHO CHECKS OUT AT 10:30? AGUILAR TOLD YOU THAT STRUCK
6 HIM AS VERY PECULIAR.

7 HE'S CHECKING OUT BECAUSE HE'S GETTING OUT OF TOWN
8 BECAUSE PAVON HAD WARNED HIM THAT THIS SURVEILLANCE WAS BEING
9 CONDUCTED. AND HE GETS IN A CAR AND HE LEAVES. AND THERE IS
10 NO DOUBT ABOUT THIS IDENTIFICATION, LADIES AND GENTLEMEN. BOTH
11 AGENTS TESTIFIED ABOUT IT AND THEY WERE UNEQUIVOCAL THAT IT WAS
12 MATTA THAT THEY SAW LEAVING THE HOTEL.

13 I WANT TO JUMP FORWARD JUST A COMMENT BECAUSE THIS IS
14 A GOOD TIME TO BRING TO YOUR ATTENTION SOME STATEMENTS BY MATTA
15 BALLESTEROS WHEN HE IS INTERVIEWED IN BOGOTA, COLOMBIA ON OR
16 ABOUT APRIL OF 1985. AGENT MIKE VIGIL TESTIFIED FOR YOU.

17 AFTER VIGIL GAVE THE MIRANDA RIGHTS TO DEFENDANT
18 MATTA, THIS IS WHAT DEFENDANT TOLD HIM. HE MAKES INCREDIBLE
19 ADMISSIONS. HE KNOWS FELIX GALLARDO. HE KNOWS CARO QUINTERO.
20 IN FACT, GALLARDO INTRODUCED HIM TO CARO QUINTERO. THAT'S WHAT
21 HE TELLS AGENT VIGIL. AND THIS IS CRUCIAL.

22 HE TELLS AGENT VIGIL, WHEN ASKED, THAT THE LAST TIME
23 WAS IN MEXICO WAS FIVE MONTHS AGO, WHICH WOULD HAVE MADE IT
24 DECEMBER OF 1984, AND THAT'S A BALD FACE LIE BECAUSE TWO AGENTS
25 SAW HIM AT THE PLAZA DEL SOL HOTEL ON FEBRUARY 12TH OF 1985.

28-80

1 FINALLY, HE SAYS ANOTHER PECULIAR THING. HE SAYS HE
2 KNOWS ABOUT THE CAMARENA CASE THROUGH THE NEWSPAPERS OR READING
3 ABOUT IT. AND THEN HE BACK PEDALS AND SAYS, "NO, I HAVE
4 PERSONAL KNOWLEDGE, BUT WHAT I KNOW CAN GET ME KILLED."

5 OF COURSE HE HAS PERSONAL KNOWLEDGE, HE WAS AT THESE
6 MEETINGS. HIS HAIR WAS FOUND AT LOPE DE VEGA. THIS MAN WAS
7 INTIMATELY INVOLVED WITH THE PLAN TO KIDNAP CAMARENA.

8 ON MARCH 6, 1985, THE REMAINS OF CAMARENA AND ZAVALA
9 ARE FOUND ABOUT 70 MILES SOUTHEAST OF GUADALAJARA, A LITTLE
10 TOWN CALLED ZAMORA. AGENTS TESTIFIED THAT THEY FOUND
11 IMMEDIATELY ADJACENT TO EACH BODY, WHICH ARE ON SLABS OF
12 CONCRETE, THE PILES OF CLOTHING FOR EACH RESPECTIVE VICTIM,
13 WHICH INCLUDES PANTS, T-SHIRTS, SWEAT SHIRTS, A BED SHEET USED
14 AS A BURIAL SHROUD, A BLINDFOLD CONSISTING OF GAUZE TAPE, ET
15 CETERA.

16 THE AGENTS, AGENT JOE GONZALES TESTIFIED FOR YOU THAT
17 EVENTUALLY THE MEXICAN POLICE TAKE HIM TO THIS AREA. THIS IS
18 EXHIBIT 170. THIS IS THE AREA THAT WE FOUND THE REMAINS OF
19 CAMARENA AND ZAVALA. REMEMBER WHAT AGENT GONZALES TOLD YOU?
20 THERE WERE NO BODIES SECRETED THERE. THAT MEANS THOSE BODIES
21 WERE DUMPED THERE. THAT'S UNEQUIVOCAL.

22 MR. RON RAWALT OF THE F.B.I., AN EXPERT IN
23 MINEROLOGY, IF I'M PRONOUNCING THAT RIGHT, TESTIFIED FOR YOU,
24 AND HIS CONCLUSIONS WERE AS FOLLOWS.

25 HE TOOK SAMPLES OF SOIL FROM THE RIGHT KNEE OF

28-81

1 CAMARENA AND HE COMPARED IT TO THE SOIL FOUND HERE AT ZAMORA,
2 70 MILES AWAY FROM GUADALAJARA, ABSOLUTELY DISSIMILAR. NO
3 MATCH AT ALL. HE THEN TAKES THE SAME SOIL FROM CAMARENA AND
4 MATCHES IT TO SOIL FOUND AT THE GRAVE SITE WHERE THE REMAINS OF
5 RADELAT AND WALKER WERE FOUND AT PRIMAVERA PARK.

6 YOU RECALL WHAT HE TOLD YOU. THERE WAS VIRTUALLY A
7 PERFECT MARCH BETWEEN SOILS. IT MEANS THAT'S WHERE THE BODIES
8 WERE ORIGINALLY BURIED BEFORE THEY WERE EXHUMED AND DUMPED BY
9 THE ROADSIDE IN ZAMORA.

10 LET THERE BE NO DOUBT, SHOULD THERE BE ANY IN YOUR
11 MINDS, THAT THESE ARE WHO THE GOVERNMENT CLAIMS THEY ARE IN
12 TERMS OF THE REMAINS. POSITIVE FINGERPRINT IDENTIFICATION FOR
13 THE REMAINS OF CAMARENA. AND LUIS ZAVALA, THE SON, TESTIFIED
14 FOR YOU THAT HE WAS ABLE TO IDENTIFY THE REMAINS OF HIS FATHER
15 THROUGH A DENTAL BRIDGE THAT FIT PERFECTLY, THE VARIOUS SCARS
16 THAT WERE FOUND ON THE BODY THAT ALFREDO ZAVALA HAD. AND HE
17 ALSO IDENTIFIED THE CLOTHES, THE SWEAT SHIRT, THE T-SHIRT, ET
18 CETERA.

19 DR. JERRY SPENCER, A VERY EXPERIENCED DOCTOR IN
20 AUTOPSIES, TESTIFIED FOR YOU. HE'S A CAPTAIN IN THE NAVY. YOU
21 WILL RECALL THAT HE EXAMINED AND PERFORMED AN AUTOPSY ON THE
22 REMAINS OF CAMARENA AND SOME INTERESTING FEATURES ABOUT THE
23 BODIES.

24 FIRST OF ALL, DIRT WAS ON THEM. AND SECOND OF ALL,
25 NO MAGGOTS, INSECTS OF ANY SORT, MEANING THEY HAD BEEN

28-82

1 UNDERGROUND. IF THEY HAD BEEN LEFT ABOVE THE SURFACE THE OF
2 GROUND, THEY WOULD HAVE BEEN REDUCED TO SKELETONS BECAUSE OF
3 THE CLIMATE AND INSECTS IN GUADALAJARA.

4 HE TOLD YOU THAT THE SKULL OF ZAVALA HAD A LARGE HOLE
5 IN IT. STRIKE THAT. THAT THE SKULL OF ZAVALA HAD MULTIPLE
6 SKULL FRACTURES AS WELL AS A BROKEN ARM.

7 AND IN TERMS OF THE CAMARENA INJURIES, THE INJURIES
8 INFLICTED ON CAMARENA, THEY WERE HORRENDOUS: 8 RIB FRACTURES,
9 4 ON EACH SIDE, A SKULL THAT WAS NOW LIKE A BROKEN EGG SHELL,
10 THE MAXILLA, THE CHEEK BONES, TWO FRACTURES ON THE RIGHT SIDE
11 AND ONE FRACTURE ON THE LEFT SIDE, FRACTURES THAT WENT BACK TO
12 BEHIND THE EYES, WENT ON TOP OF THE FOREHEAD AND ON TOP OF THE
13 HEAD.

14 ONE PART OF THE SKULL ON CAMARENA WAS MISSING
15 ENTIRELY ON THE RIGHT SIDE. I BELIEVE ON THE LEFT SIDE THERE
16 WAS THIS HOLE ABOUT 5 OR 6 CENTIMETERS IN DIAMETER. AND IN HIS
17 OPINION, AND THIS MAN HAS BEEN AROUND AND KNOWS WHAT HE'S
18 TALKING ABOUT BECAUSE OF THE HUNDREDS OF AUTOPSIES HE HAS DONE,
19 THAT HOLE WAS CAUSE BY AN INSTRUMENT THAT WAS INSERTED AND THEN
20 WITHDRAWN, LIKE A PHILLIPS SCREWDRIVER. AND THE REASON FOR
21 THAT WAS BECAUSE OF THE INTERNAL AND EXTERNAL BEVELING OF THAT
22 INJURY.

23 YOU WILL RECALL INTERNAL BEVELING IS WHEN YOU PUT IN,
24 THEN THERE IS SKULL PORTIONS THAT GO IN. BUT THEN WHEN YOU
25 PULL IT OUT, THEN THESE SKULL FRACTURES ALSO COME OUT ON THE

28-83

1 OUTSIDE OF THE SKULL.

2 IT WAS NOT A GUN SHOT WOUND. HE WAS UNEQUIVOCAL
3 ABOUT THAT. HE DID X-RAYS AND HE FOUND NO BULLET. THERE WAS
4 NO GUN RESIDUE, NO METAL FRAGMENTS OF ANY SORT. AND THE CAUSE
5 OF CAMARENA'S DEATH, ACCORDING TO THIS EXPERT, WAS A HOMICIDE
6 DUE TO MULTIPLE BLUNT FORCE INJURIES, AND THIS PROTRUDING SKULL
7 INJURY.

8 NARCOTICS ENTERPRISE RETALIATION. THEY RETALIATED
9 AGAINST CAMARENA, THEY RETALIATED AGAINST TWO INNOCENT MEN THEY
10 MISTOOK FOR D.E.A. AGENTS. WHY? WHY DID THEY DO THIS?

11 WELL, YOU KNOW WHY BECAUSE OF THE SIGNIFICANT
12 TESTIMONY YOU HAVE HEARD. THE SIMPLE, PLAIN ANSWER IS THAT
13 THROUGH THE WORK OF D.E.A., THERE HAVE BEEN SIGNIFICANT MONEY
14 AND NARCOTICS LOSSES INFLICTED UPON THIS ENTERPRISE. AND THIS
15 ENTERPRISE IS NOT STUPID. THESE ARE BRIGHT, CLEVER MEN. THEY
16 ARE NOT GOING TO SIT STILL AND LET THIS HAPPEN.

17 THIS ENTERPRISE WENT BACK TO AT LEAST 1983. REMEMBER
18 AUGUSTINE BUENO GONZALEZ? THIS WAS A MAN WHO TESTIFIED THAT HE
19 WAS PRESENT AT A MEETING IN GUADALAJARA WHERE MATTA WAS
20 PRESENT, FELIX GALLARDO, CARO, FONSECA. THE PURPOSE OF THE
21 MEETING WAS TO DISCUSS BRINGING IN ENORMOUS -- OVER 1,000
22 KILOGRAMS AT A TIME -- LOADS TO THE UNITED STATES. AND WHEN
23 THESE MEN MET, THEY DISCUSSED PRICE, QUANTITIES, ROUTES AND
24 EVENTUALLY, WHAT THEY CONCLUDED WAS THAT COCAINE PROVIDED WOULD
25 COME IN THROUGH MEXICO AND ULTIMATELY INTO THE UNITED STATES.

28-84

1 AND IT DID.

2 THE SAME MAN, AUGUSTINE BUENO TOLD YOU THAT AFTER
3 THIS BIG MEETING, HE RETURNS TO LIVE IN CALIFORNIA, AND THAT HE
4 STARTED RECEIVING PLANE LOADS OF COCAINE. HE WOULD THEN HELP
5 IN UNLOADING AND BRINGING THIS COCAINE TO A STASH HOUSE IN LA
6 PUENTE, CALIFORNIA. THIS IS THE HOUSE, GOVERNMENT EXHIBIT 19,
7 WHERE AN ASTRONOMICAL QUANTITY OF COCAINE WENT THROUGH, IN
8 ADDITION TO THE AMOUNTS THAT AUGUSTINE BUENO WORKED ON, AND HE
9 WAS VERY DESCRIPTIVE ABOUT THAT.

10 OTHER LOADS ALSO CAME THROUGH THAT HOUSE -- SO MANY,
11 HE COULDN'T REMEMBER. AND IN FACT, HIS CONSERVATIVE ESTIMATE
12 WAS THAT APPROXIMATELY 30 TONS OF COCAINE WENT THROUGH THAT
13 RESIDENCE, THAT STASH HOUSE IN LA PUENTE.

14 MAY OF 1984: YOU HEARD THE TESTIMONY OF GUADALUPE
15 GOMEZ, AN INFORMANT WITH THE D.E.A., AND YOU RECALL THAT HE
16 TOLD YOU THAT HE WAS UNDERCOVER WORKING FROM MANUEL CHAVEZ WHO
17 WAS THIS GENERAL SUPERVISOR FOR A MULTITUDE OF MARIJUANA
18 PLANTATIONS IN ZACATECAS.

19 MR. GOMEZ, THE INFORMANT, WORKED DIRECTLY UNDER
20 CAMARENA AND CAMARENA HAD ORDER HIM INFILTRATE THIS
21 ORGANIZATION AND REPORT BACK TO ME, AND TRY TO SET UP A HEROIN
22 DEAL AS WELL.

23 HE WORKED, AND HE WORKED VERY HARD BECAUSE HE TOLD
24 YOU WHAT HE SAW THERE. AT ONE TIME CARO QUINTERO COMES TO THE
25 ZACATECAS AREA WITH A LOT OF MONEY AND HIS OWN BODYGUARDS TO

28-85

3
1 DELIVER BRIBE MONEY TO BE GIVEN TO THE LOCAL LAW ENFORCEMENT
2 OFFICIALS.

3 ULTIMATELY, IT SUBSIDED AND AFTER CONTINUED PRESSURE
4 BY THE D.E.A., LADIES AND GENTLEMEN, A RAID WOULD BE DONE TO
5 TAKE DOWN THE ZACATECAS MARIJUANA. AFTER A LOT OF CAJOLING
6 WITH THE MEXICAN FEDERAL JUDICIAL POLICE, THEY FINALLY
7 COOPERATE, THE ZACATECAS FIELDS ARE LOCATED, AND ON OR ABOUT
8 MAY 26 -- YOU HAVE HEARD TESTIMONY ABOUT THIS -- A RANCH
9 OUTSIDE OF ZACATECAS CITY IS FOUND.

10 AND AT THIS RANCH THERE WERE AT LEAST TEN TONS OF
11 MANICURED MARIJUANA, 6500 POUNDS OF MARIJUANA SEED, ENOUGH TO
12 PKANPLANT 6500 ACRES. 50 ACRES OF MARIJUANA WERE FOUND AND
13 BURNED?

14 ANOTHER INTERESTING THING, YOU WILL RECALL THE
15 TESTIMONY OF THE AGENTS THAT BEFORE THEY WENT OUT TO ZACATECAS
16 TO DO THE RAID, THEY GAVE INFORMATION TO THE M.F.J.P. THAT
17 CERTAIN GOVERNMENT OFFICIALS WERE ON THE TAKE AND WERE PART OF
18 THAT ENTERPRISE OF ZACATECAS, BECAUSE GUADALUPE GOMEZ SAID
19 THAT.

20 WELL, WHEN THEY GET OUT THERE TO DO THE RAIDS, AND
21 THIS -- LO AND BEHOLD, THEY FIND ONLY MARIJUANA, A FEW
22 INSIGNIFICANT EMPLOYEES, LOW-LEVEL WORKERS, NO DRUG
23 TRAFFICKERS. THE NAMES THAT WERE GIVEN BY THE D.E.A. TO BE
24 ARRESTED WERE NOT ARRESTED, AND YOU KNOW WHY. THEY WERE TIPPED
25 OFF. THAT IS THE METHOD OF COOPERATION, THE M.O. OF CORRUPT

28-86

1 OFFICIALS.

2 ON THE ONE HAND THEY APPEAR TO BE COOPERATING AND ON
3 THE OTHER, THEY TIP OFF THE DRUG DEALERS BECAUSE THEY'RE IN
4 CAHOOTS WITH THEM.

5 SEIZURE NUMBER 1, ZACATECAS. THERE WAS A SECOND
6 SEIZURE IN ARIZONA. YOU HEARD THE TESTIMONY OF HECTOR SANTANA,
7 WHO WAS AN INNOCENT VICTIM HERE. HERE IS A MAN RECRUITED BY
8 JOSE MELO, AN EMPLOYEE OF MATTA.

9 JOSE MELO CONVINCES THIS YOUNG MAN --BECAUSE AT THE
10 TIME HE WAS 20 OR 21 IN 1983 IN FLORIDA -- HE CONVINCES HECTOR
11 SANTANA TO START A CORPORATION, ATLANTIC IMPORT AND EXPORT
12 CORPORATION. AND THE PURPORTED PURPOSE OF THIS CORPORATION WAS
13 TO EXPORT AIRLINE PARTS TO THIS COMPANY IN COLOMBIA. WELL,
14 THAT NEVER HAPPENED BECAUSE THIS WAS A BOGUS CORPORATION. THIS
15 WAS A CORPORATION THAT NEVER MADE PROFITS, A CORPORATION THAT
16 NEVER MADE ANY MONEY BECAUSE THAT CORPORATION WAS CREATED FOR
17 ANOTHER PURPOSE.

18 I WANT YOU TO FOCUS GOVERNMENT EXHIBIT 22. THIS IS A
19 TRUST DEED. AND THIS TRUST DEED ON OR ABOUT JUNE 6, 1983 GIVES
20 THIS AIRCRAFT, GOVERNMENT EXHIBIT 20, AND AEROCOMMANDER 840 --
21 IT GIVES OWNERSHIP OF THIS AIRCRAFT TO ATLANTIC IMPORT.

22 AND THE OWNER, THE GRANTOR, THE PERSON WHO'S GIVING
23 THIS PLANE TO ATLANTIC IMPORT, IS A MAN -- IT IS IN THE
24 DOCUMENTS, READ IT -- IS A MAN BY THE NAME OF JAIRIO RIOS
25 VALLEJO. IN A MOMENT, I'LL EXPLAIN WHY JAIRIO RIOS VALLEJO IS

28-87

1 MATTA BALLESTEROS. I WON'T EXPLAIN IT LATER, I'LL EXPLAIN IT
2 NOW.

3 JAIRO RIOS VALLEJO IS MATTA. SPECIAL AGENT MIKE
4 VIGIL, WHEN HE INTERVIEWED MATTA IN BOGOTA IN APRIL OF 1985,
5 THEY EVENTUALLY SEIZE CERTAIN ITEMS, TOO, AT THE HOUSE WHERE
6 MATTA WAS ARRESTED.

7 THEY FIND A VERY INTERESTING ITEM HERE, GOVERNMENT
8 EXHIBIT 30. I WANT YOU TO LOOK AT IT WHEN YOU HAVE A CHANCE.
9 IT IS A VENEZUELAN PASSPORT. IT HAS THE PHOTOGRAPH OF MATTA
10 BALLESTEROS AND IT HAS AN ALIAS NAME OF JAIRO RIOS VALLEJO, THE
11 SAME NAME AS FOUND ON THE TRUST DEED THAT GAVE THIS
12 AEROCOMMANDER 840 TO ATLANTIC IMPORT.

13 "WHY?", YOU ASK? I'LL TELL YOU WHY, BECAUSE WHEN YOU
14 READ THE TRUST DEED IT LAYS IT OUT. ONLY A CITIZEN OF THE
15 UNITED STATES CAN OWN IT IN THE UNITED STATES. THEY NEEDED
16 HECTOR SANTANA BECAUSE HE WAS AN AMERICAN CITIZEN. JOSE MELO
17 WAS A COLOMBIAN.

18 SO THEY RECRUITED HIM TO RECRUIT THIS AIRPLANE IN THE
19 U.S., AND YOU KNOW WHY, SO THAT THIS AIRPLANE COULD FREELY COME
20 INTO THE THE UNITED STATES WITH ENORMOUS LOADS OF COCAINE. AND
21 ONE OF THOSE LOADS WAS SEIZED IN ARIZONA, IN YOUNG, ARIZONA AT
22 THIS OUT-OF-THE-WAY DESERTED, REMOTE AIR STRIP.

23 YOU ALSO HEARD THE TESTIMONY OF TWO MEN THAT I WANT
24 TO FLAG FOR YOU. MR. WALTER SCHUMACHER AND PAT HOSMANN.
25 SCHUMACHER IS THE PRESIDENT OF SKYTELL, WHICH IS A COMPANY THAT

28-88

4
1 REPAIRED AND SOLD AIRPLANES. HIS EMPLOYEE WAS PATRICK HOSMANN.
2 AND THEY TESTIFIED BECAUSE THEY HAD SOME INTERESTING THINGS TO
3 SAY TO YOU. THEY SAID THAT IN 1984, IN THE SPRING, JOSE MELO
4 WHO YOU KNOW NOW WORKS FOR MATTA, WANTED TO BUY ANOTHER
5 AIRCRAFT, AN AEROCOMMANDER 1000.

6 SO SCHUMACHER AND HOSMANN FLY THE AEROCOMMANDER 1000
7 TO GUADALAJARA, AND WHO SHOWS UP TO INSPECT IT? MATTA
8 BALLESTEROS AND FELIX GALLARDO. SCHUMACHER AND HOSMANN BOTH
9 IDENTIFIED MATTA AS BEING THERE. THEY DIDN'T LIKE THAT
10 AIRPLANE AND THEY DIDN'T BUY IT.

11 A MONTH OR TWO LATER, JOSE MELO CALLS AGAIN AND SAYS
12 I WANT ANOTHER AEROCOMMANDER 1000. CAN YOU SHOW ME ONE?
13 AGAIN, HOSMANN AND SCHUMACHER FLY AN AEROCOMMANDER 1000
14 AIRCRAFT TO GUADALAJARA. AGAIN THEY GO TO THE AIRPORT. AGAIN,
15 WHO COMES TO INSPECT IT? MATTA BALLESTEROS AND FELIX GALLARDO.

16 THEY BUY THAT PLANE IN SOMEWHAT SHOCKING
17 CIRCUMSTANCES TO MR. SCHUMACHER. YOU MAY RECALL IT WAS
18 SOMEWHAT HUMOROUS. HE EXPECTS TO BE PAID IN A CHECK AND
19 SUDDENLY THIS BRONCO, THIS CAR SHOWS UP AT THE AIRPORT WITH TWO
20 SAMSONITE SUITCASES, AND IT IS A MILLION DOLLARS IN CASH TO PAY
21 FOR THE AIRCRAFT. IT IS NOT THE WAY TO DO NORMAL BUSINESS
22 TRANSACTIONS, I SUBMIT TO YOU.

23 THIS MONEY WAS PROVIDED BY MATTA AND FELIX GALLARDO
24 TO BUY ANOTHER AIRCRAFT SO THAT THAT AIRCRAFT COULD ALSO BE
25 USED TO TRANSPORT COCAINE TO THE UNITED STATES. WE KNOW THAT

28-89

1 THIS IS THE PLANE THAT FLEW THE LOAD THAT WAS SEIZED AT YOUNG,
2 ARIZONA ON AUGUST 14.

3 WE KNOW THAT COURTESY OF MIKE LONG, WHO WAS A PILOT
4 FOR BECKETT AVIATION OUT OF SCOTTSDALE, ARIZONA. YOU WILL
5 RECALL THAT HE TOLD YOU THAT HIS JOB WAS BASICALLY TO FLY
6 AIRPLANES BETWEEN GUADALAJARA AND ARIZONA FOR REPAIR. AND ONE
7 OF THE PLANES HE FREQUENTLY FLEW BACK AND FORTH WAS THIS
8 AIRPLANE HERE. AND HE FLEW IT SO MANY TIMES FOR REPAIRS IN
9 ARIZONA BECAUSE IT WAS PERPETUALLY DAMAGED.

10 WHAT TYPE OF DAMAGE DID THEY HAVE; TO THE NOSE, TO
11 THE LANDING GEAR, TO THE PROPELLERS. YOU HEARD TESTIMONY THAT
12 THAT KIND OF DAMAGE TO THAT AIRCRAFT WAS CONSISTENT WITH
13 LANDING IN UNIMPROVED, REMOTE AIR STRIPS.

14 WELL, FOLKS, WHO LANDS IN THAT KIND OF AIR STRIPS
15 OTHER THAN DRUG DEALERS WHO ARE TRYING TO SURREPTITIOUSLY BRING
16 COCAINE INTO THE BORDERS OF OUR COUNTRY.

17 MIKE LONG NONETHELESS TELLS YOU THAT ON AUGUST 13 HE
18 GET A FRANTIC PHONE CALL. JOSE MELO, MATTA'S REPRESENTATIVE.
19 MELO SAYS, "I NEED THE AEROCOMMANDER NOW."

20 MIKE LONG GETS INTO THE AIRPLANE AND TAKES HIS THEN
21 GIRLFRIEND, NOW WIFE, AND THEY PACK A LUNCH. AND IN THIS LUNCH
22 ARE NAPKINS WITH THE LOGO FOR BECKETT AVIATION. WELL THEN, NOW
23 WE KNOW WHAT HAPPENS ON AUGUST 14.

24 YOU HEARD TESTIMONY OF THREE OFFICERS WITH THE
25 DEPARTMENT OF PUBLIC SAFETY OF ARIZONA, AMONG THEM JOHN

28-90

1 UNDERWOOD AND BYRON MILLS AND MR. HOLEMAN. AND THEY TESTIFIED
2 FOR YOU THAT THEY WERE ON DUTY ON AUGUST 14 IN AREA OF YOUNG,
3 ARIZONA. AND THEN THEY GET RADIO COMMUNICATIONS THAT AN
4 AIRCRAFT WAS SEEN DROPPING OFF SOMETHING. AND NOW, WHATEVER
5 WAS IN THE PLANE HAS BEEN UNLOADED ON TO THREE TRUCKS AND THOSE
6 THREE TRUCKS ARE MOVING IN CARAVAN FASHION.

7 WELL, YOU HEARD WHAT HAPPENED. THEY DID A POLICE
8 STOP OF THOSE THREE TRUCKS. AND IN THE LEAD TRUCK -- I BELIEVE
9 IT IS A CHEVROLET -- THEY FOUND BOXES OF COCAINE, AS WELL AS
10 SUITCASES OF COCAINE. ABOUT 1400 POUNDS. IT WAS A HUGE
11 SEIZURE. THIS WAS 1984. KEEP THAT IN MIND. DON'T JUDGE BY
12 TODAY'S STANDARDS. THIS WAS HUGE BACK IN ARIZONA AT THAT TIME.
13 AND THERE IS SOMETHING ELSE.

14 ONE OF THE OFFICERS, BYRON MILLS, FOUND UNDER THE
15 SEAT OF THAT TRUCK THAT HAD ALL THE DOPE, A BECKETT AVIATION
16 NAPKIN. HERE IT IS, EXHIBIT 28-A.

17 AND EXHIBIT 28-B IS ANOTHER BECKETT NAPKIN, AND WHERE
18 WAS THIS ONE FOUND? MR. UNDERWOOD TESTIFIED FOR YOU HE IS A
19 CUSTOMS PILOT. REMEMBER THAT AFTER THIS PLANE WAS SEEN LEAVING
20 THE AREA HE GOES TO THE YOUNG AIRPORT AND DOES A WALK AROUND TO
21 SEE IF HE CAN FIND ANY EVIDENCE. HE DOES FIND SOMETHING. HE
22 FINDS TIRE TRACKS -- TRUCK TIRES THAT GO FROM THE LANDING
23 STRIP, OFF THE LANDING STRIP, AND HE FOLLOWS THEM. WHEN HE
24 GETS TO THE END, HE FINDS 28-B, ANOTHER BECKETT AVIATION
25 NAPKIN.

28-91

1 AND WHEN WE SHOWED BOTH OF THESE NAPKINS TO MR. MIKE
2 LONG, THE PILOT -- HE PUT THEM IN THERE IN THE FIRST PLACE --
3 HE SAYS, "YEP, THESE ARE THE TYPE OF NAPKINS THAT WERE IN THE
4 PLANE WHEN I FLEW IT BACK TO JOSE MELO."

5 ONE FINAL THING ABOUT. THIS MR. MIKE LONG TOLD YOU
6 THERE WAS SOMETHING VERY PECULIAR ABOUT THIS AIRCRAFT. WHAT
7 WAS PECULIAR WAS THAT EVERY TIME HE SAW IT, HE SAW THE
8 FOLLOWING: THE RUG WAS FILTHY, THE PANELS AGAINST THE SIDES OF
9 THE PLANE WERE SCUFFED UP AND DIRTY, BUT THE SEATS APPEARED TO
10 BE BRAND SPANKING NEW. YOU KNOW, WHAT THAT MEANS?

11 THE SEATS WOULD BE REMOVED SO THAT YOU WOULD HAVE
12 MORE SPACE TO CARRY COCAINE. AND BOXES AND SUITCASES OF
13 COCAINE BUMPED AROUND AND THAT'S WHY THE RUG WAS DIRTY AND
14 THAT'S WHY THERE WAS SCUFF MARKS ON THE PANELS. THIS
15 AEROCOMMANDER 840 THAT WAS GIVEN TO THE CORPORATION IN ARIZONA
16 BY MATTA BALLESTEROS WAS USED TO BRING COCAINE INTO THE UNITED
17 STATES. AND ONE OF THOSE LOADS WAS SEIZED ON AUGUST 14 OF
18 1984, LADIES AND GENTLEMEN. A SIGNIFICANT LOSS, A SECOND BIG
19 LOSS TO THE NARCOTICS ENTERPRISE BASED OUT OF GUADALAJARA.

20 WHILE THESE SEIZURES ARE GOING ON, THIS NARCOTICS
21 ENTERPRISE IS NOT STANDING STILL. THEY ARE RETALIATING EVEN
22 BEFORE THEY MURDERED RADELAT, WALKER, ZAVALA AND CAMARENA.

23 MR. CESAR GARCIA BUENO: THIS IS THE MAN THAT CAME
24 INTO THIS COURTROOM IN A WHEELCHAIR. HE'S A PARAPLEGIC. HE
25 WORKED FOR CAMARENA, HE WAS AN INFORMANT FOR CAMARENA IN

28-92

1 GUADALAJARA, HE IS AN ACCOMPLISHED ATTORNEY, HE HAD A PRACTICE
2 FOR A LONG TIME, HE HAD OFFICES IN MORE THAN ONE CITY, HE WAS A
3 FRIEND OF CAMARENA, HE PROVIDED INFORMATION TO CAMARENA. FOR
4 EXAMPLE, MARRIAGE CERTIFICATES OF NARCOTICS TRAFFICKERS,
5 PROPERTY DOCUMENTS, ANYTHING THAT CAMARENA NEEDED, GARCIA BUENO
6 WOULD ENDEAVOR TO GET IT FOR HIM.

7 WELL, ONE TIME CAMARENA ASKED GARCIA BUENO TO GET HIM
8 PROPERTY RECORDS FOR MEMBERS OF THIS NARCOTICS ENTERPRISE.
9 GARCIA BUENO SPEAKS TO A MAN BY THE NAME OF ZENDEJAS WHO'S ALSO
10 A MEMBER OF THIS ENTERPRISE, AND THEY AGREE TO MEET ON
11 SEPTEMBER 30, 1984 AT THE MANOLO'S RESTAURANT IN GUADALAJARA.

12 GARCIA BUENO WAITS ABOUT 45 MINUTES. HE'S THERE
13 SPEAKING TO A FRIEND, AND THEN SUDDENLY ZENDEJAS SHOWS UP AND
14 SNEAKS UP BEHIND HIM ABOUT 6:15 IN THE EVENING AND HE FIRES
15 FIVE ROUNDS FROM A HAND GUN INTO THE BACK OF GARCIA BUENO. AND
16 WHILE HE'S DOING THAT, HE YELLS AT HIM, "YOU'RE GOING TO DIE
17 BECAUSE YOU'RE A SNITCH FOR THE D.E.A."

18 GARCIA BUENO SURVIVED. HE WAS EVACUATED AND HE NOW
19 RESIDES IN THE UNITED STATES.

20 CLEARLY, THOUGH, LADIES AND GENTLEMEN, THIS CARTEL,
21 THIS NARCOTICS ENTERPRISE, WOULD NOT SIT STILL. THEY WERE
22 ALREADY RETALIATING, AND THERE ARE OTHER EXAMPLES, AS WELL. I
23 WANT TO FOCUS JUST FOR A MOMENT ABOUT A RATHER -- FELIX
24 GALLARDO AND MATTA.

25 YOU HAVE HEARD AN ABUNDANCE OF TESTIMONY THAT

28-93

1 ESTABLISHES THAT FELIX GALLARDO WAS THE DIRECT PARTNER OF MATTA
2 BALLESTEROS. AND WE KNOW THIS, BESIDES OTHER TESTIMONY YOU'VE
3 HEARD, BECAUSE OF A MAN BY THE NAME OF FRANK RETAMOZA.

4 FRANK RETAMOZA, AS YOU WILL RECALL WHEN HE TESTIFIED,
5 WAS BORN IN NORTHERN CALIFORNIA AS A CHILD UP TO ABOUT THE AGE
6 OF 16. HE GOES TO LIVE IN MEXICO. AND FINALLY, AS AN ADULT HE
7 BASICALLY COMES BACK TO SOUTHERN CALIFORNIA, THE SAN PEDRO
8 AREA. AND HE SPEAKS AND LEARNS TO SPEAK ENGLISH. HE GETS A
9 JOB AS A MACHINIST AND WORKS AT THE DOCKS.

10 WELL, FRANK RETAMOZA IS THE FIRST COUSIN OF FELIX
11 GALLARDO. AND FELIX GALLARDO HAD AGREED PREVIOUSLY TO TAKE
12 OVER SOME PROPERTY THAT WAS OWNED BY RETAMOZA'S MOTHER AND TO
13 TRY TO SELL IT AND THEN GIVE THE PROCEEDS OF THAT SALE BACK TO
14 THE MOTHER. HE DIDN'T DO THAT.

15 THIS UPSETS RETAMOZA, THIS UPSETS RETAMOZA'S MOTHER.
16 RETAMOZA MEETS IN TIJUANA WITH FELIX GALLARDO. AND AT THAT
17 TIME, FELIX GALLARDO TELLS HIM THAT HE WILL PAY RETAMOZA, BUT
18 WHAT HE DIDN'T TELL HIM WAS THE MANNER IN WHICH HE WOULD PAY
19 HIM. YOU WILL RECALL RETAMOZA TOLD YOU.

20 OUT OF THE BLUE ONE DAY, HE GETS TWO KILOS OF COCAINE
21 THROUGH A COURIER THAT WAS DELIVERED BY GALLARDO. RETAMOZA
22 DIDN'T KNOW WHAT TO DO WITH IT. HE HADN'T DEALT WITH COCAINE
23 BEFORE, SO HE GIVES IT TO SOMEONE ELSE TO TRY TO SELL IT. THAT
24 PERSON RIPS OFF RETAMOZA. RETAMOZA IS OUT TWO KILOS AND
25 REPORTS BACK TO FELIX GALLARDO, AND FELIX GALLARDO IS PRETTY

28-94

1 UPSET.

2 BUT FELIX GALLARDO GIVES HIM ANOTHER CHANCE. HE
3 GIVES HIM FOUR MORE KILOS OF COCAINE AND TELLS HIM "TRY TO SELL
4 THAT". RETAMOZA HAD THAT FOR EIGHT OR NINE MONTHS WITHOUT
5 BEING ABLE TO SELL IT AND FINALLY GIVES IT TO BACK TO FELIX
6 GALLARDO. BUT NOW FELIX GALLARDO ANNOUNCES THE FOLLOWING, THAT
7 NOW IT'S RETAMOZA WHO OWES GALLARDO \$80,000 BECAUSE OF THE
8 STOLEN KILOS OF COCAINE.

6
9 AND RETAMOZA NOW HAS TO WORK THAT DEBT OFF, AND WORK
10 HE DOES. FIRST YOU MAY RECALL HE TAKES OUT COCAINE, 18 KILOS
11 AT A TIME, THAT ARE HIDDEN IN GAS TANKS THAT WERE DELIVERED TO
12 HIM. AND THEN GALLARDO WOULD CALL AND GIVE HIM INSTRUCTIONS AS
13 TO WHERE TO DISTRIBUTE THE COCAINE.

14 ON OTHER OCCASIONS, HE ACTUALLY WENT OUT TO MARICOPA
15 AND RECEIVED -- AND MET AN AIRPLANE THAT DELIVERED COCAINE.
16 AND THEN HE DROVE THAT COCAINE IN A MOTOR HOME, ONCE TO LAKE
17 ELSINORE AND ONCE TO SANTA MONICA.

18 AND FINALLY, RETAMOZA FINDS WHAT IS PROBABLY HIS
19 STRENGTH, HIS FORTE, BECAUSE HE IS AN INEPT DRUG DEALER, WE
20 KNOW THAT. HE IS BEST AT DOING WHAT PROBABLY ANY OF US COULD
21 DO HERE, AND HTAT IS DRIVING A MOTOR HOME FROM SOUTHERN
22 CALIFORNIA TO GUADALAJARA. AND BOY, DOES HE DO THAT. A LOT OF
23 TIMES. SO MANY TIMES, HE DOESN'T REMEMBER. SO MANY TIMES THAT
24 HIS CONSERVATIVE ESTIMATE OF THE DOLLAR AMOUNT TOTAL THAT HE
25 DELIVERED IN GUADALAJARA WAS ABOUT \$150 MILLION IN UNITED

28-95

1 STATES CURRENCY, AND THIS WAS A PERIOD OF TIME OF ONLY MONTHS.

2 NOW, HE TOLD YOU WHO HE DELIVERED THIS MONEY TO.

3 BESIDES FELIX GALLARDO, HE DELIVERED IT TO MATTA BALLESTEROS AT
4 AN OFFICE IN GUADALAJARA. IN FACT, RETAMOZA HAD SEVERAL
5 CONVERSATIONS WITH MATTA AT THIS OFFICE OF FELIX GALLARDO IN
6 GUADALAJARA.

7 ONE TIME, FOR EXAMPLE, MATTA IS SPEAKING TO RETAMOZA
8 AND HE TELLS HIM VERY COMPLIMENTARY THINGS. MATTA TELLS
9 RETAMOZA THAT HE HAS HEARD ABOUT THE GOOD WORK HE'S DOING FOR
10 THIS ORGANIZATION, THAT HE WAS WORTH WHATEVER MONEY HE WAS
11 BEING PAID, THAT HE HAS TO WAIT HIS TIME AND BIDE HIS TIME, AND
12 EVENTUALLY HE IS GOING TO MAKE MORE MONEY. AND ULTIMATELY, IF
13 HE STICKS WITH IT -- THIS THE MATTA TALKING -- HE CAN MAKE OVER
14 A BILLION DOLLARS FROM WHAT HE'S DOING RIGHT NOW.

15 ANOTHER VERY DISTURBING AND ILLUMINATING
16 CONVERSATION. MATTA LEARNS FROM RETAMOZA THAT A MAN BY THE
17 NAME OF DIEGO HAD TRIED TO RECRUIT RETAMOZA AWAY FROM THE
18 ORGANIZATION OF MATTA AND FELIX. MATTA DID NOT TAKE THAT VERY
19 WELL, BECAUSE YOU WILL RECALL WHAT RETAMOZA TOLD YOU THAT MATTA
20 SAID.

21 MATTA WAS LIVID. HE WAS FURIOUS. MATTA TOLD
22 RETAMOZA THAT HE WAS GOING TO HAVE MEMBERS OF THE FAMILY OF
23 DIEGO KILLED BECAUSE OF HIS TRYING TO RECRUIT AWAY RETAMOZA.

24 RETAMOZA ALSO TOLD THAT YOU MEMBERS OF THIS
25 ORGANIZATION HAD VARIOUS CALL NAMES OR NUMBERS FOR THE RADIO SO

28-96

1 THAT MATTA WAS "PONY" AND FELIX GALLARDO WAS "M-1". AND YOU
2 HAVE HEARD OTHER TESTIMONY, OF COURSE, THAT CARO WAS "R-1", ET
3 CETERA.

4 AGAIN, LADIES AND GENTLEMEN, AS THESE SEIZURES ARE
5 OCCURRING, THIS ENTERPRISE IS NOT TAKING THIS LYING DOWN.
6 THERE ARE OTHER EXAMPLES AND OTHER TESTIMONY OF ACTS OF
7 HARASSMENT THAT YOU HEARD ABOUT. YOU WILL RECALL ON ONE
8 OCCASION AGENT MIKE ACUNA IS DRIVING WITH ROGER KNAPP, AND
9 THEY'RE DRIVING AROUND TRYING TO FIND A HOUSE OF FELIX
10 GALLARDO.

11 THEY SEE FELIX GALLARDO ARRIVE, HE BACKS HIS MARQUIS
12 INTO THE PARKING LOT OF HIS CONDO. AND EVIDENTLY, HE SPOTTED
13 ACUNA BECAUSE AS SOON AS ACUNA TRIES TO GO AROUND THE BLOCK,
14 THIS CAR STARTS FOLLOWING HIM. IT WAS A WHITE MUSTANG, I
15 BELIEVE, ONE OF THE CARS THAT HAD BEEN IN THIS CARAVAN OF CARS
16 HAD FOLLOWED FELIX GALLARDO BACK TO HIS HOUSE.

17 THIS CAR CONTAINS THREE TO FOUR MEN. THESE MEN PULL
18 UP ALONG SIDE ACUNE. THEY FLASH THESE D.F.S. BADGES, THEY'RE
19 YELLING AT THE AMERICANS TO PULL OVER, AND THEY ARE PULLED OVER
20 AND THEY'RE QUESTIONED STRENUOUSLY BY THE D.F.S. AGENTS.

21 WELL, THE D.F.S. AGENTS WERE BODYGUARDS FOR FELIX
22 GALLARDO, AND THEY WERE HARASSING THE AGENTS, AND THE AGENTS
23 HAD TO LIE TO GET OUT OF THAT TIGHT SPOT. REMEMBER WHAT THEY
24 SAID? THEY WERE AFFILIATED WITH THE U.S. EMBASSY. AND THE
25 D.F.S. MEN WERE SATISFIED WITH THAT AND THEY LET THEM GO.

28-97

1 ANOTHER INCIDENT WHICH, PERHAPS IS FUNNY NOW, BUT
2 CERTAINLY WASN'T, I'M SURE, FOR THE AGENT AT THE TIME. TOMMY
3 GOMEZ -- DO YOU RECALL WHEN HE IS DOING SURVEILLANCE AT THE
4 GUADALAJARA AIRPORT? THEY SEE FELIX GALLARDO THERE. FELIX
5 SPOTS THE AGENT. FELIX RUNS INTO THE HANGAR, AND SUDDENLY THIS
6 CAR STARTS FOLLOWING THE AGENTS. THEY CAN'T SHAKE THE CAR.

7 THE AGENT HAS TO DRIVE TO THE TERMINAL, PARK THE CAR
8 AND WALK INSIDE. AND THEY HOPE AND PRAY THAT WHEN HE RETURNS
9 THE CAR IS DISAPPEARED. WELL, IT HASN'T.

10 NOW A SECOND CAR HAS SHOWN UP WITH TWO ADDITIONAL MEN
11 AND THOSE TWO MEN WERE ARMED AND FOLLOW THE AGENT BACK INTO THE
12 TERMINAL. THE D.E.A. AGENTS HAVE TO PLACE A CALL TO THE U.S.
13 EMBASSY FOR HELP. AND ULTIMATELY, TEN M.F.J.P. AGENTS WITH
14 SHOT GUNS AND THREE D.E.A. AGENTS WHO ARE ALSO ARMED HAVE TO
15 ESCORT THE D.E.A. AGENTS OUT OF THE GUADALAJARA AIRPORT.

16 YOU MAY RECALL GOMEZ TOLD YOU THAT AS HE WAS LEAVING,
17 HE GAVE THE INTERNATIONAL HAND SIGN TO THE BODYGUARDS WHO WERE
18 HARASSING THE AGENTS.

19 THIS ORGANIZATION HAS LOST ZACATECAS. THIS
20 ORGANIZATION HAS LOST 1400 POUNDS OF COCAINE IN ARIZONA. THERE
21 ARE MORE LOSSES. REMEMBER JUNE 22, 1984? YOU HEARD TESTIMONY
22 ABOUT THIS; THAT D.E.A. AGENTS IN L.A. ARE DOING SURVEILLANCE.
23 THEY SET UP ON A HOTEL. FINALLY, THEY GO TO THE HOTEL, THEY
24 GET CONSENT TO ENTER, AND THEY FIND IN TWO SEPARATE ROOMS A
25 TOTAL OF \$4.1 MILLION IN U.S. CURRENCY. AND YOU KNOW WHO THAT

28-98

1 MONEY BELONGED TO BECAUSE FRANK RETAMOZA TOLD YOU.

2 RETAMOZA SAID THAT THE DAY BEFORE HE HAD BEEN AT THAT
3 VERY HOTEL COUNTING THIS MONEY, AND THEN RETAMOZA LEFT AND WENT
4 BACK TO HIS HOUSE TO COUNT \$700 MILLION. AND THEN SOMETHING
5 VERY FUNNY HAPPENED, YOU MAY RECALL.

6 ONE OF THE AGENTS WHO SEIZED THE \$4.1 MILLION, AGENT
7 RICEVUTO, AGENT RICEVUTO. AND WHEN THEY'RE THERE LOOKING AT
8 ALL THIS MONEY AND COUNTING IT WITH THE MONEY MACHINES, THE
9 PHONE RINGS.

10 RICEVUTO, THE AGENT, PICKS IT UP AND SAYS, YES AND HE
11 IDENTIFIES HIMSELF AS ANTONIO. AND THE SPEAKER ON THE OTHER
12 LINE DOESN'T KNOW WHAT TO SAY AND HE HANGS UP. THEY CALL
13 AGAIN. RICEVUTO PICKS UP THE LINE. "ANTONIO HERE."

14 AGAIN, NO ONE ANSWERS AND THEY HANG UP. THAT
15 HAPPENED 2, 3, 4 TIMES. IT WAS RETAMOZA. RETAMOZA WAS CALLING
16 TO CHECK ON THE MONEY TO SEE IF THEY NEEDED HELP TO COUNT IT.
17 THIS STRANGER CALLS OR RATHER ANSWERS THE PHONE. EVERYONE
18 FREAKS OUT.

19 RETAMOZA GOES BACK TO HIS HOUSE AND GETS THE \$7
20 MILLION DOLLARS THAT HE HAD STASHED THERE, PUTS IT IN A VEHICLE
21 AND TAKES IT BACK TO MATTA AND FELIX GALLARDO. IN FACT, HE IS
22 PATTED ON THE BACK FOR SAVING THAT \$7 MILLION. BUT THAT MONEY
23 BELONGED TO THE SAME ENTERPRISE. AND THIS ENTERPRISE CONSISTED
24 OF MATTA AND FELIX GALLARDO, AMONG OTHERS.

25 THREE LOSSES AT A MINIMUM HERE, AND NOW PERHAPS THE

28-99

1 MOST BOGGLING, SIGNIFICANT LOSS OF ALL, CHIHUAHUA. YOU MAY
2 RECALL THE TESTIMONY OF D.E.A. AGENTS, INCLUDING MR. CHARLES
3 LUGO. HE HEADED UP THIS OPERATION VANGUARD. AND THE PURPOSE
4 OF THIS OPERATION WAS TO WORK, SUPPOSEDLY, WITH THE MEXICAN
5 GOVERNMENT TO SEIZE AND ERADICATE MARIJUANA.

6 WELL, LUGO LEARNS OF THIS HUGE MARIJUANA PLANTATION
7 IN THE STATE OF CHIHUAHUA, HE REPORTS IT TO THE MEXICANS, AS
8 WELL AS TO THE ATTORNEY GENERAL'S OFFICE, AND AT FIRST THEY
9 DON'T WANT TO DO ANYTHING. THEY COME UP WITH EXCUSES.

10 REMEMBER LUGO TOLD YOU ABOUT THIS. FIRST THEY SAY
11 THEY HAD NO FUEL. LUGO SAYS NO, THAT'S A LIE. I KNOW WHERE
12 ALL THE SUPPLIES ARE AND THERE IS FUEL.

13 THEN THE ATTORNEY GENERAL'S OFFICE SAYS WE HAVE NO
14 AIRCRAFT. HE REPLIES YES, WE DO. I KNOW WHERE IT IS.

15 FINALLY, AFTER A LOT OF CAJOLING, THEY AGREE TO
16 PARTICIPATE IN TAKING DOWN THE CHIHUAHUA FIELDS. AND DO THEY
17 EVER. SOUTH OF BUFALO, LUGO FINDS 240 ACRES MARIJUANA AND CORN
18 ROWS, 7 FEET HIGH. THERE ARE THESE ELABORATE WATER AND
19 ELECTRICAL SYSTEMS, THERE ARE THESE HUGE, BARRACK-LIKE
20 BUILDINGS ABOUT 100 YARDS LONG, TEN FOOT HIGH PILES OF
21 MANICURED MARIJUANA. A LOT OF MARIJUANA, LADIES AND GENTLEMEN.

22 SOMETHING INTERESTING HAPPENS. ALDANA: HE WAS
23 REPRESENTING THE MEXICAN GOVERNMENT AT THESE SEIZURES. ALDANA
24 ARRIVES IN HIS OWN HELICOPTER, LOOKS AT ALL THIS MARIJUANA AND
25 TELLS AGENT LUGO, "GREAT JOB", PATS HIM ON THE BACK, "LET'S GO

28-100

1 HOME."

2 AND LUGO SAYS, "NO, THERE IS MARIJUANA OUT THERE.
3 WE'RE GOING BACK UP IN THE HELICOPTER." ALDANA SAYS IS, "NO,
4 I'M NOT."

5 LUGO SAYS, "FINE. TOMORROW I'LL TELL THE U.S.
6 AMBASSADOR AND YOU EXPLAIN IT TO HIM."

7 LUGO THEN CHANGES DIRECTION -- PARDON ME, ALDANA.
8 NOW HE SAYS, HE GOES AND TALK TO HIS PILOT, AS WELL AS THE
9 PILOT OF THE HELICOPTER FOR LUGO. AND THEN HE COMES BACK TO
10 LUGO AND SAYS, "I HAVE JUST SPOKEN TO THE PILOTS AND THEY SAY
11 WE ONLY HAVE 15 MINUTES LEFT OF FLYING TIME FOR FUEL."

12 LUGO SAYS, "THAT'S BULL. WHEN I GOT INTO MY AIRCRAFT
13 WITH MY PILOT, HE TOLD ME HE HAD THREE HOURS OF FUEL AND WE
14 HAVE ONLY BEEN UP 15 MINUTES."

15 YOU CAN SEE, LADIES AND GENTLEMEN, THE TYPE OF
16 OBSTRUCTION THAT THIS GOVERNMENT WAS INTENT ON PARTICIPATING IN
17 TO PREVENT HUGE SEIZURES.

18 AND THERE WAS YET A SECOND FIELD FOUND. LUGO FINDS A
19 SECOND FIELD, ABOUT 600 ACRES. AGAIN, HUGE QUANTITIES OF
20 MARIJUANA, 3000 WORKERS ARE JUST MILLING ABOUT THE AREA. TONY
21 CELAYA FOUND ANOTHER HUGE BRANCH, NORTH OF CHIHUAHUA THIS TIME.

22 AND YOU RECALL WHAT HE TOLD YOU? WHEN HE FLEW OVER
23 IN HIS HELICOPTER, IT WAS ONE OF THE MOST INCREDIBLE THINGS HE
24 HAD EVER SEEN. THOUSANDS AND THOUSANDS OF MEN RUNNING AROUND,
25 WAVING THEIR HANDS. HE LANDS. THESE ARE ALL WORKERS THAT WERE

28-101

1 WORKING ON THESE PLANTATIONS. THEY HAD BEEN ORDERED AND SET
2 LOOSE AND JUST TOLD TO WALK AWAY.

3 WELL, THEY WERE OUT THERE WITH A WARRANT. THIS GROUP
4 WAS SO BIG THAT CELAYA HAD TO BREAK THEM DOWN BY STATE. HE HAD
5 TO FIND ONE MAN IN EACH STATE WHO WAS LITERATE AND WHO COULD
6 WRITE, AND HAD THAT ONE YOUNG MAN WRITE THE NAMES OF EACH MAN
7 FROM EACH STATE. IT WAS ALMOST 6,000 WORKERS.

8 THAT, IN CONJUNCTION WITH THE 3,000 THAT LUGO FOUND,
9 IT'S ALMOST 10,000 WORKERS THAT WERE WORKING ON THESE HUGE
10 MARIJUANA PLANTATIONS. AND ALL THE WORKERS, STRANGELY, HAD THE
11 SAME TIME OF ISSUE OF EQUIPMENT: SPOONS, FORKS, DISHES AND
12 THIS BLANKET. IT WAS ALL THE SAME BECAUSE THEY HAD BEEN
13 PROVIDED BY THE SAME PEOPLE. AND THAT MARIJUANA, BY THE WAY,
14 BELONGED TO CARO QUINTERO, AS DID THE MARIJUANA FOUND IN
15 ZACATECAS.

16 YOUR HONOR, MIGHT THIS BE A GOOD OPPORTUNITY TO --

17 THE COURT: ARE YOU GOING INTO ANOTHER SUBJECT?

18 MR. MEDRANO: YES, YOUR HONOR.

19 THE COURT: WE'LL TAKE OUR NONE RECESS AT THIS TIME
20 AND RECONVENE AT 1:30.

21 THE CLERK: PLEASE RISE. THIS COURT IS NOW IN
22 RECESS.

23 (JURY EXCUSED.) (NOON RECESS.)
24
25

28-102

LOS ANGELES + CALIFORNIA WEDNESDAY, JULY 11, 1990

+ 1:30 P.M.

(JURY PRESENT.)

(CLOSING ARGUMENT OF PLAINTIFF CONTINUED.)

THE COURT: YOU MAY CONTINUE, COUNSEL.

MR. MEDRANO: THANK YOU, YOUR HONOR.

GOOD AFTERNOON, LADIES AND GENTLEMEN OF THE JURY. SO FAR WE HAVE ESTABLISHED A COUPLE THINGS: NUMBER ONE, WHAT HAPPENED OUT THERE, THE MURDER OF THESE FOUR INNOCENT PEOPLE.

SECOND OF ALL, WE HAVE ESTABLISHED WHY THESE HEINOUS CRIMES OCCURRED, SIGNIFICANT NUMEROUS NARCOTICS LOSSES AND MONEY LOSSES.

NOW, I'D LIKE TO DISCUSS WITH YOU THE FOLLOWING. WHO DID IT? WHO WAS RESPONSIBLE FOR THESE TERRIBLE, TERRIBLE CRIMES? NOW, I'VE ALLUDED TO THIS ALREADY. THESE NARCOTICS TRAFFICKERS, THE MEMBERS OF THIS PARTICULAR ENTERPRISE BASED OUT OF GUADALAJARA, ARE NOT STUPID PEOPLE. THEY DID NOT MAKE ALL THIS MONEY, THESE MILLIONS AND MILLIONS OF DOLLARS, BY BEING STUPID.

AND IF SOMETHING IS WRONG, IF PEOPLE ARE TAKEN DOWN, THERE ARE LOADS OF DOPE, IF PEOPLE ARE SEIZING MILLIONS OF DOLLARS THAT BELONG TO YOU, YOU DO SOMETHING ABOUT IT. BUT BEFORE YOU DO THAT, YOU MEET, YOU GET TOGETHER, YOU BRAINSTORM AND YOU TRY TO FIGURE OUT WHAT COURSE OF ACTION IS GOING TO BE

28-103

1 TAKEN BY THE LEADERS IN THIS PARTICULAR ENTERPRISE.

2 BEFORE I ADDRESS THAT, LET ME JUST FLAG SOMETHING FOR
3 YOU. COUNT 5 CHARGES SEVERAL OF THESE DEFENDANTS WITH BEING A
4 MEMBER OF THE CONSPIRACY TO KIDNAP AGENT CAMARENA. NOW, THERE
5 ARE SEVERAL ELEMENTS THAT YOU HAVE TO FIND BEFORE YOU CAN
6 CONVICT, AND I'D LIKE TO RAISE THESE WITH YOU VERY BRIEFLY.

7 FIRST, YOU HAVE TO FIND THAT THERE WAS AN AGREEMENT
8 TO COMMIT THE PARTICULAR OFFENSE ALLEGED HERE. AND THAT IS TO
9 KIDNAP AND MURDER AN AGENT WHILE HE WAS ENGAGED IN THE LINE OF
10 HIS OFFICIAL DUTIES.

11 SECOND, THAT A PARTICULAR DEFENDANT BECAME A MEMBER
12 OF THE CONSPIRACY KNOWING AT LEAST WHAT ONE OF THE OBJECTIVES
13 OF THE CONSPIRACY WAS.

14 THIRD AND FINALLY, THAT THEREAFTER AT LEAST ONE OF
15 THE MEMBERS OF THE CONSPIRACY PERFORMED AT LEAST ONE OF THE
16 OVERT ACTS THAT IS ALLEGED IN INDICTMENT BEFORE YOU.

17 THAT IS COUNT 5, THE CONSPIRACY TO KIDNAP AND
18 INTERROGATE SPECIAL AGENT CAMARENA.

19 COUNT 6 CHARGES THREE OF THESE DEFENDANTS HERE WITH
20 ACTUALLY COMMITTING THE KIDNAPPING OF CAMARENA. AND THERE ARE
21 FIVE ELEMENTS YOU'LL HAVE TO FIND, AND I SUBMIT TO YOU AT THE
22 CONCLUSION OF THESE CLOSING ARGUMENTS, YOU'LL FIND THERE IS THE
23 EVIDENCE TO SUPPORT THESE ELEMENTS.

24 THE FIRST ONE, THAT ONE OF THESE DEFENDANTS
25 PARTICIPATED OR AIDED AND ABETTED THE KIDNAPPING OF CAMARENA.

28-104

1 THE SECOND, THAT THIS DEFENDANT'S PARTICIPATION
2 OCCURRED AFTER OCTOBER 12 OF 1984.

3 THIRD, THAT AT THE TIME THAT THIS OCCURRED, CAMARENA
4 WAS AN AGENT WITH THE D.E.A.

5 FOUR, THAT WHILE THIS OCCURRED, CAMARENA WAS ENGAGED
6 IN HIS OFFICIAL DUTIES OR CAPACITY AS A D.E.A. SPECIAL AGENT.

7 FINALLY, FIVE, THAT THE DEFENDANTS HELD CAMARENA TO
8 EITHER RANSOM OR FOR REWARD OR FOR SOME OTHER BENEFIT.

9 IN ADDITION, LADIES AND GENTLEMEN, COUNT 7 CHARGES A
10 FELONY MURDER, AND YOU'LL HAVE TO FIND FIVE ELEMENTS THERE, AND
11 LET ME DESCRIBE THEM FOR YOU.

12 FIRST, THAT AGENT CAMARENA WAS KILLED; SECOND, THAT
13 HE WAS KILLED WITH MALICE AFORETHOUGHT; AND THIRD, THAT SUCH
14 ACT WAS DONE IN THE PERPETRATION OF THE KIDNAPPING OF CAMARENA;
15 FOUR, THAT THE DEFENDANT DIRECTLY PARTICIPATED OR AIDED AND
16 ABETTED THE COMMISSION OF THESE ACTS; AND FIVE, THAT THE
17 PARTICULAR DEFENDANT'S PARTICIPATION OR AIDING AND ABETTING
18 OCCURRED AFTER OCTOBER 12, 1984.

19 MALICE AFORETHOUGHT: ALL THAT MEANS -- AND JUDGE
20 RAFEEDIE WILL READ THESE INSTRUCTIONS TO YOU AFTER WE ALL
21 FINISH -- MALICE AFORETHOUGHT MEANS THAT YOU MAY INFER THAT THE
22 KILLING WAS COMMITTED DURING THE PERPETRATION OR ATTEMPTED
23 PERPETRATION OF THE KIDNAPPING, AS ALLEGED IN THE INDICTMENT.

24 NOW, LET'S TALK ABOUT THESE MEETINGS. THERE WERE
25 FIVE. FOUR OF THEM CERVANTES TOLD YOU ABOUT, ONE OF THEM MR.

28-105

1 PLASCENCIA TOLD YOU ABOUT.

2 CERVANTEZ: A 30-YEAR OLD MAN BORN IN GUADALAJARA,
3 MARRIED, HAS TWO KIDS, HE USED TO BE IN THE RIOT POLICE, USED
4 TO BE A LOCAL POLICE OFFICER, AS WELL AS WITH THE RURAL POLICE.

5 AND HE TOLD YOU IN SIGNIFICANT DETAIL THAT STARTING
6 FROM ABOUT THE END OF '82 TO ABOUT MARCH OF 1985, HIS SOLE JOB
7 AND FUNCTION WAS TO BE THE HEAD OF SECURITY FOR JAVIER BARBA'S
8 HOUSE IN GUADALAJARA. LA QUINTA.

9 AND HIS DUTIES CONSISTED OF THE VERY BASIC THINGS:
10 PROTECT BARBA WHEN HE'S IN THE HOUSE, SCREEN ALL GUESTS WHEN
11 THEY TRY TO COME INTO THE HOUSE, ANSWER THE TELEPHONE IF ANYONE
12 CALLS. BUT THAT IS HIS SO WILL REASON FOR EXISTENCE FOR THOSE
13 TWO OR THREE YEARS WHEN HE WAS WORKING UNDER HIS BOSS JAVIER
14 BARBA?

15 NOW, YOU HAVE HEARD TESTIMONY FROM CERVANTES THAT
16 RUBEN ZUNO ARCE, BESIDES THE MEETINGS, WAS FREQUENTLY AT
17 LA QUINTA. HE WAS THERE FOR SPECIFIC REASONS. YOU WILL RECALL
18 THE STORY THAT CERVANTES TOLD YOU THAT ONE TIME ZUNO IS AT LA
19 QUINTA AND HE'S ADMIRING THIS ENORMOUS, MAGNIFICENT GUN
20 COLLECTION OF BARBA. IT HAD EVERYTHING, YOU MAY RECALL.
21 SEMI-AUTOMATIC WEAPONS, AUTOMATIC GUNS, CONSISTING OF UZI'S,
22 AK-47S, AR-15S. IT HAD GRENADES, IT HAD A BAZOOKA, AND IT HAD
23 VIRTUALLY EVERYTHING. AND HE HAD THIS ONE COLLECTOR'S ITEM
24 THOMPSON MACHINE GUN. ZUNO LIKED IT, AND AS A GIFT, BARBA GAVE
25 IT TO HIM.

1 ZUNO WAS ALSO AT LA QUINTA ON OTHER OCCASIONS; TWO
2 SPECIFICALLY COME TO MIND, IF YOU RECALL THE TESTIMONY OF
3 CERVANTES. AGAIN, LADIES AND GENTLEMEN, CERVANTES WAS A MAN
4 WHO WAS ON THAT STAND FOR ALMOST A WEEK, MOST OF IT UNDER
5 ARDUOUS AND STRENUOUS CROSS-EXAMINATION BY THE RESPECTIVE
6 DEFENSE COUNSEL IN THIS CASE, BUT HE HELD UP.

7 AND EVERYTHING THAT HE TOLD YOU THAT HAPPENED DURING
8 HIS DIRECT, HE REITERATED AD NAUSEUM AT TIMES FOR THE DEFENSE
9 LAWYERS IN THE CROSS-EXAMINATION.

10 CERVANTES TOLD YOU ABOUT TWO PARTICULAR VISITS BY
11 RUBEN ZUNO ARCE. ON ONE OCCASION, ZUNO ARRIVES. HE IS
12 ACCOMPANIED BY A MILITARY OFFICIAL AND A MILITARY CHAUFFEUR.
13 AND BY THE WAY, FOR BOTH THESE TIMES I'M ABOUT TO DESCRIBE FOR
14 YOU, JAVIER VASQUEZ AND THE OTHER TIERRA LIBRE BROTHERS WERE
15 THERE AS SECURITY AT LA QUINTA. THEY VIRTUALLY LIVED THERE.
16 THAT WAS THE TESTIMONY OF CERVANTES.

17 ANYWAY, THE FIRST TIME ZUNO GOES THERE, HE COMES TO
18 DELIVER TO BARBARA FIVE D.F.S. CREDENTIALS. CERVANTES GOT TO
19 LOOK AT THE PICTURES ON THEM, AND ONE OF THOSE D.F.S.
20 CREDENTIALS WAS FOR JAVIER VASQUEZ.

21 THE SECOND OCCASION. ZUNO GOES BACK TO THE HOUSE,
22 AGAIN IN THE COMPANY OF A CHAUFFEUR. THIS TIME HE HAS ONE
23 D.F.S. CREDENTIAL, AND THIS ONE IS FOR JORGE BARBA. AND HE
24 DELIVERS THAT TO HIS BROTHER JAVIER BARBA.

25 AND AGAIN, JAVIER VASQUEZ IS A BODYGUARD AT LA

28-107

1 QUINTA. THEREAFTER, CERVANTES TOLD YOU, THAT ON TWO DIFFERENT
2 OCCASIONS, RUBEN ZUNO ARCE GOES TO THE HOUSE TO RECEIVE
3 BRIEFCASES FULL OF MONEY. BARBA WAS NOT THERE, BARBA HAD LEFT
4 THOSE BRIEFCASES FOR CERVANTES, AND CERVANTES WAS ORDERED BY
5 BARBA TO GIVE THEM TO ZUNO WHEN HE ARRIVED. AND THAT'S WHAT
6 CERVANTES DID.

7 REMEMBER I EARLIER IN THIS CASE WAS DESCRIBING FOR
8 YOU -- PARDON ME -- EARLIER IN MY CLOSING ARGUMENT, I WAS
9 TELLING YOU ABOUT THE RESPECTIVE ROLES OF SOME OF THESE
10 DEFENDANTS? WELL, IT'S BECOMING MANIFEST THAT ZUNO HAS A
11 CERTAIN FUNCTION.

12 HE'S A POLITICALLY WELL-CONNECTED INDIVIDUAL AND
13 BECAUSE OF HIS IMMENSE POLITICAL CONTACTS, HE GREASES THE
14 WHEELS FOR PROTECTION FROM CORRUPT LAW ENFORCEMENT OFFICIALS.
15 AND THAT'S CLEAR BECAUSE HE'S ABLE TO OBTAIN D.F.S. CREDENTIALS
16 FOR THUGS, FOR BODYGUARDS, WHICH INCLUDES PEOPLE LIKE JAVIER
17 VASQUEZ.

18 MR. CERVANTES TOLD YOU ABOUT THE FIRST MEETING THAT
19 HE RECALLED. REMEMBER IN SEPTEMBER OF 1984, THE BAPTISM WHERE
20 YUREMI, THE DAUGHTER OF BARBA, AND THE GODFATHER WAS GOING TO
21 BE THE FORMER CABINET MEMBER IN MEXICO, JAVIER GARCIA PANIAGUA.

22 MANY PEOPLE WERE PRESENT FOR THE FESTIVITIES,
23 INCLUDING ZUNO. CARO WAS THERE, FONSECA, PANIAGUA, BARBA --
24 MANY, MANY SIGNIFICANT DRUG TRAFFICKERS AND LAW ENFORCEMENT
25 OFFICIALS.

28-108

1 THERE ARE ARMED GUARDS. AGAIN, JAVIER VASQUEZ WAS
2 THERE, AS MR. CERVANTES TOLD YOU. AND THERE IS A MEETING IN
3 THE LIVING ROOM AND THERE ARE FOUR PEOPLE PRESENT: ZUNO,
4 BARBA, PANIAGUA, COCHI LOCO -- MANUEL SALCIDO, THE CRAZY FIG.
5 AND IN THIS MEETING, THERE IS A DISCUSSION OF THE D.E.A. AGENT.
6 THEY SAID SPECIFICALLY THERE WAS A D.E.A. AGENT CAUSING US
7 PROBLEMS. WE NEED TO FIND OUT WHO IT IS. INDEED, ZUNO PIPES
8 IN, "WE SHOULD PICK THE D.E.A. AGENT UP."

9 THE SECOND MEETING, OCTOBER OF 1984. THIS WAS THE
10 WEDDING FOR JORGE BARBA. YOU WILL RECALL THAT HIS BROTHER
11 JAVIER SENDS JORGE IN THE VAN WITH CERVANTES TO GO TO THE
12 AIRPORT TO PICK UP A VERY IMPORTANT INDIVIDUAL, MATTA, WHO'S IN
13 THE COMPANY OF A COLOMBIAN ASSISTANT.

14 AS THEY'RE PILING INTO THE VEHICLE, ARMANDO PAVON
15 REYES, WHO IS ARMED, COMES BY AND ASKS CERVANTEZ, "ARE THESE
16 THE PEOPLE FOR BARBA?"

17 THEY GO IN THE VEHICLE, THEY ARRIVE AT LA QUINTA.
18 AGAIN, BODYGUARDS PRESENT AT THE HOUSE. JAVIER VASQUEZ. THERE
19 ARE TWO MEETINGS AT THE WEDDING. THERE IS ONE MEETING BEFORE
20 THE ACTUAL CHURCH CEREMONY AND THE BIG BASH, THE BIG PARTY.

21 AT THIS FIRST MEETING, AGAIN IT IS IN THE LIVING
22 ROOM, CERVANTES IS ALSO PRESENT. HIS JOB IS TO PROTECT BARBA
23 INSIDE THE HOUSE. WHEN BARBA GOES ON HIS EXCURSIONS AWAY FROM
24 THE HOUSE, HE HAS OTHER BODYGUARDS TO TAKE CARE OF HIM. THAT
25 IS WHY CERVANTES SITS IT AT THESE MEETINGS; HE IS THERE TO

28-109

1 PROTECT HIS BOSS. HE IS A TRUSTED CONFIDANT WHO HAD WORKED FOR
2 BARBA FOR THREE YEARS.

3 A MEETING OCCURS. MATTA IS AT THIS MEETING, BARBA,
4 ALDANA, THE DIRECTOR OF INTERPOL, IBARRA, THE DIRECTOR OF THE
5 M.F.J.P.

6 AT THIS MEETING, YOU WILL RECALL, ALDANA PULLS OUT
7 SOME POLICE REPORTS AND SHOWS THEM TO MATTA. AND THEN ALDANA
8 EXPLAINS THAT WE'LL SOON HAVE THE IDENTITY OF THIS AGENT WHO'S
9 CAUSING US THE PROBLEMS, AND HE MENTIONS ZACATECAS IN PASSING.

10 IBARRA ALSO PARTICIPATES IN THE CONVERSATION. HE
11 EXPLAINS HOW THIS AGENT IS CAUSING PROBLEMS FOR BARBA. AND
12 MATTA FINALLY SAYS THAT THIS AGENT HAS BEEN ALSO CAUSING
13 PROBLEMS FOR US DOWN SOUTH, AND HE MENTIONS ZACATECAS. AND
14 THEN THERE ARE THESE CHILLING WORDS THAT HE USES AT THE TAIL
15 END OF THE MEETING. REMEMBER WHAT CERVANTEZ TOLD YOU?
16 "WELL, SILENCE IS GOLDEN."

17 WHAT DO YOU THINK THAT MEANS? SOMETHING HAS TO BE
18 DONE ABOUT THIS AGENT. AS EARLY AS SEPTEMBER AND OCTOBER OF
19 1984, THESE MEMBERS OF THIS ENTERPRISE, THE LEADERS,
20 PARTICULARLY, ARE TRYING TO FORMULATE A STRATEGY AND PLAN AS TO
21 HOW TO DEAL WITH THIS AGENT, WHOEVER THAT MAY BE, WHO'S CAUSING
22 ALL THESE PROBLEMS.

23 THEREAFTER, THERE WAS THE CHURCH WEDDING. THEN AFTER
24 THAT, THERE WAS THE PARTY. AND THEN A SECOND MEETING WAS HELD
25 IN THE LIVING ROOM. MATTA AGAIN IS PRESENT, BARBA, ALDANA,

28-110

1 IBARRA, ZUNO IS PRESENT FOR THIS MEETING, PANIAGUA IS THERE,
2 CARO, FONSECA. AGAIN, THESE NAMES COME UP REPEATEDLY, LADIES
3 AND GENTLEMEN, AND THE REASON THEY DO, AS I SHOWED IN THAT
4 FIRST DIAGRAM, IS THAT I THIS ENTERPRISE IS HUGE AND
5 SIGNIFICANT AND HAD MANY LEADERS. AND THAT'S WHY THEY DO BOTH
6 COCAINE AND MARIJUANA.

7 BUT HERE WAS A DISCUSSION AT THE SECOND WEDDING --
8 PARDON ME -- AT THE SECOND MEETING IN OCTOBER OF 1984. AGAIN,
9 THERE IS THIS D.E.A. AGENT WHO WAS CAUSING PROBLEMS. ZUNO SAYS
10 "WELL, WE'LL PICK HIM UP ONCE WE KNOW WHO IT IS."

11 CARO SAYS, ALMOST ARROGANTLY, "WHEN WE GET THIS GUY,
12 I WANT TO SEE HIM FACE TO FACE." AGAIN, WHAT IRONY, BECAUSE HE
13 HAD HIS OPPORTUNITY. YOU RECALL THE INTERROGATION TORTURE
14 TAPES? ONE OF THE LEAD INTERROGATORS WAS RAFAEL CARO QUINTERO.
15 PANIAGUA ALSO STATES AND DISCUSSES THAT THEY HAVE TO TRY TO
16 IDENTIFY THIS AGENT THAT WAS CAUSING PROBLEMS.

17 NOW, THERE IS A FOURTH MEETING, AND THIS ONE IS
18 DESCRIBED FOR YOU NOT BY CERVANTES, BUT BY PLASCENCIA. THE
19 MEETING AT LA BAJADITA, WHICH WAS THE HOUSE THAT BELONGED TO
20 FONSECA. AND AT THIS MEETING IS WHEN THEY PASSED AROUND THE
21 PHOTOGRAPH OF CAMARENA. HERE IS WHAT HAPPENED ON THAT DAY.

22 PLASCENCIA AT THAT TIME, IN DECEMBER OF 1984, WHEN
23 THIS OCCURRED SHORTLY BEFORE THE CHRISTMAS HOLIDAYS, WAS A
24 BODYGUARD AND CHAUFFEUR FOR ANTONIO GARATE.

25 PLASCENCIA TAKES ANTONIO GARATE TO LA BAJADITA,

28-111

1 FONSECA'S HOUSE AND FONSECA'S OFFICE. AND YOU KNOW THAT
2 BECAUSE BERNABE, WHEN HE TESTIFIED FOR YOU, CORROBORATED ALL
3 THAT.

4 ANTONIO GARATE GOES INSIDE THE HOUSE. PLASCENCIA
5 WAITS OUTSIDE. FONSECA SHOWS UP. THEY GREET EACH OTHER,
6 FONSECA INVITES PLASCENCIA INSIDE TO THE HOUSE. AS THEY WALK
7 IN, WHO IS THERE AS A BODYGUARD, BUT NONE OTHER THAN JAVIER
8 VASQUEZ VELASCO. EVERYBODY GOES INTO THE LIVING ROOM TO HAVE A
9 MEETING.

10 AMONG THE PEOPLE PRESENT ARE FONSECA, CARO, BARBA,
11 SAMUEL RAZO -- MANY PEOPLE. AGAIN, NARCOTICS TRAFFICKERS.

12 FONSECA IS HEADING UP THE MEETING. HE'S SITTING
13 BEHIND A WOODEN DESK WITH A SEE-THROUGH GLASS COVER OR TOP.
14 REMEMBER PLASCENCIA TOLD YOU THAT?

15 HE PULLS OUT A PHOTOGRAPH AND THROWS IT ACCROSS THE
16 DESK TO ANTONIO GARATE AND TELLS YOU, "LOOK WHAT KIND OF PEOPLE
17 YOU'RE HANGING AROUND WITH."

18 ANTONIO GARATE LOOKS AT THE PHOTOGRAPH. PLASCENCIA
19 WHO'S STANDING IMMEDIATELY NEXT TO ANTONIO GARATE, LOOKED AT
20 THE PHOTOGRAPH AND, REMEMBER, TOLD YOU WHAT IT DEPICTED. IT
21 SHOWED ANTONIO PARREA, AND NEXT TO HIM IS CAMARENA. BOTH ARE
22 SMILING.

23 CAMARENA IS WEARING AN ALL BLUE SUIT AND HE'S HOLDING
24 A DRINK IN HIS HAND. PARREA IS CLOWNING. HE HAS HIS ARM
25 AROUND CAMARENA, HE HAS HIS FEET OR LEGS IN THE FIGURE FOUR

28-112

1 POSITION, AND HE'S STICKING OUT HIS TONGUE AND TRYING TO TOUCH
2 THE TIP OF HIS NOSE.

3 NOW, ANTONIO GARATE LOOKS AT THE PHOTOGRAPH AND
4 FONSECA TELLS ANTONIO GARATE, "YOU HAVE TO KILL PARREA, AND
5 WE'LL TAKE CARE OF EL LICENCIADO CAMARENA." ANTONIO GARATE
6 SAYS, "I CAN'T DO THAT. PARREA IS NOT ONLY MY FRIEND, HE'S A
7 CLOSE FRIEND OF COCHI LOCO AND COCHI LOCO WILL GET MAD IF I
8 HAVE ANYTHING TO DO WITH THIS." SO HE DECLINES TO DO SO.

9 THE PHOTOGRAPH MAKES ITS WAY AROUND EVERYBODY AT THE
10 LIVING ROOM. THAT'S WHAT PLASCENCIA TOLD HIM. EVENTUALLY, THE
11 PHOTOGRAPH COMES BACK TO THE DESK AND IT ENDS UP BACK WITH
12 FONSECA.

13 THEN THE FOLLOWING OCCURS. A MILITARY COLONEL IS
14 BROUGHT INTO THE LIVING ROOM. FONSECA TELLS BARBA SEND ME
15 ANTONIO VASQUEZ, THE BROTHER OF JAVIER VASQUEZ. ANTONIO
16 VASQUEZ COMES IN.

17 FONSECA TELLS HIM, "GO TO MY BEDROOM, GO TO MY SAFE,
18 GET ABOUT THAT QUANTITY (INDICATING) OF CASH AND BRING IT BACK
19 AND TAKE PLASCENCIA WITH YOU."

20 THE TWO MEN GO TO THE BEDROOM. THERE IS THIS SAFE --
21 REMEMBER PLASCENCIA DESCRIBED IT FOR YOU. IT IS ABOUT A METER
22 HIGH, HALF A METER WIDE. YOU OPEN IT UP AND IT'S COMPLETELY
23 FULL OF UNITED STATES CURRENCY IN DENOMINATIONS OF \$50 AND \$100
24 BILLS.

25 ANTONIO REACHES IN, GRABS A HANDFULL OF MONEY, CLOSES

28-113

1 THE SAFE, RETURNS TO THE LIVING ROOM WITH PLASCENCIA, GIVES THE
2 MONEY TO FONSECA WHO GIVES IT TO THE MILITARY COLONEL, WHO
3 BREAKS IT IN HALF AND PUTS MONEY IN EACH POCKET. AND FONSECA
4 ASKS HIM, "IS THAT ENOUGH?" AND THE COLONEL REPLIES "YES".

5 SOON THEREAFTER, THE MEETING BROKE UP.

6 FINALLY, ON THE EVE OF THE ABDUCTION OF SPECIAL AGENT
7 CAMARENA, THERE WAS A FINAL MEETING IN EARLY FEBRUARY.
8 CERVANTES TOLD YOU ABOUT IT. IT OCCURRED AGAIN AT LA QUINTA.
9 MANY PEOPLE ARRIVED, AND THAT INCLUDES ZUNO, FONSECA, CARO.
10 AND FONSECA BRINGS AN ARMED GUARD WITH HIM.

11 WHO IS IT? BERNABE. CERVANTES IDENTIFIED HIM IN
12 COURT FOR YOU. HE WAS THERE AND HE WAS ARMED. A MEETING IS
13 HELD YET AGAIN IN THE LIVING ROOM BECAUSE ALL MEETINGS WERE
14 HELD IN THE LIVING ROOM.

15 CARO TELLS BARBA DURING THE MEETING THAT WE HAVE TO
16 FIND OUT AND PICK UP THIS -- FIND OUT WHO IT IS AND PICK UP
17 THIS AGENT AND FIND OUT WHAT HE KNOWS.

18 ZUNO, HE SAYS, ZUNO AGREES AND ALSO SUGGESTS THAT HE
19 BE PICKED UP. REMEMBER WHAT ZUNO TELLS THE OTHERS AT THE
20 MEETING AS TO WHAT TO DO WHEN THEY FIND THE AGENT?

21 ZUNO SAYS THAT WHEN WE FIND HIM, LET'S ASK WHAT HE
22 KNOWS ABOUT MY GENERAL, MY GENERAL GARDOQUI, A HIGH-RANKING
23 MILITARY OFFICIAL IN MEXICO.

24 AND THEN TO SHOW YOU THE AUDACITY, THE BRAZENNESS OF
25 THIS ENTERPRISE, CARO SUGGESTS, "WELL, WHY DON'T WE ALSO PICK

28-114

1 UP THE U.S. AMBASSADOR, JOHN GAVIN?"

2 BARBA SHUTS THAT DOWN IMMEDIATELY. HE SAYS, "NO,
3 THAT WILL CAUSE TOO MUCH TROUBLE. LET'S JUST GO WITH THE
4 AGENT."

5 AND THEY DECIDED ON THE AGENT BECAUSE THEY FELT THEY
6 COULD GET AWAY WITH IT. THEY HAD KILLED RADELAT AND WALKER
7 ONLY A FEW DAYS BEFORE THAT. NO RANCOR, NO PROBLEMS, NO
8 CRITICISMS. THEY FELT AN AGENT WOULD BE IDEAL TO PICK UP,
9 INTERROGATE AND LET'S FIND OUT WHAT HE KNOWS.

10 THE BOMB FELL. CAMARENA IS ABDUCTED ON FEBRUARY 7.
11 AFTER THAT. CERVANTES TOLD ME OF THE POST-ABDUCTION MEETING
12 HELD AT LA QUINTA. AND HERE IS THE WAY THIS CAME DOWN.

13 CORITA: CORITA HAS BEEN IDENTIFIED FOR YOU BY
14 SEVERAL PEOPLE AS BEING ONE OF SEVERAL BODYGUARDS FOR BARBA AND
15 FONSECA.

16 ITALIANO: ANOTHER BODYGUARD THAT HAS BEEN
17 IDENTIFIED, NOT ONLY BY OUR WITNESSES -- JAVIER VASQUEZ IN HIS
18 STATEMENTS TO AGENT REYNOSO ALSO SAID HE KNEW THEY WERE
19 BODYGUARDS.

20 CORITA ARRIVES AT LA QUINTA AND HE'S FRANTIC. HE
21 FINDS BARBA AND TELLS BARBA IN THE PRESENCE OF CERVANTES, "THE
22 BOMB HAS EXPLODED. RAFA WENT --" RAFA, REFERRING TO RAFAEL
23 CARO QUINTERO -- "WENT TOO FAR. THE AMERICAN IS DEAD."

24 BARBA IMMEDIATELY GOES TO THE TELEPHONE, CALLS ZUNO
25 AND TELLS HIM TO GET OVER TO LA QUINTA IMMEDIATELY. ZUNO

28-115

5
1 ARRIVES AT LA QUINTA. BARBA TELLS ZUNO WHAT HE JUST HEARD FROM
2 CORITA, AND THIS IS WHAT ZUNO SAYS.

3 "WELL, I CAN'T STOP THE TROUBLE. IT'S SET IN MOTION,
4 THERE IS JUST TOO MUCH TROUBLE, I CAN'T STOP THAT." THEN HE
5 SAYS THIS: "BUT I HAVE FIVE TONS OF MARIJUANA IN MASCOTA
6 THAT'S BURIED AND I NEED HELP TO MOVE THAT. CAN YOU HELP ME?"

7 BARBA AGREES TO. BARBA TURNS TO JAVIER VASQUEZ, AS
8 CERVANTES TOLD YOU, AND TELLS HIM LEAVE AND COME BACK WITH
9 WORKERS SO WE CAN MOVE THAT MARIJUANA THAT IS IN MASCOTA.

10 JAVIER VASQUEZ LEAVES THE HOUSE, HE COMES BACK A
11 LITTLE BIT LATER WITH THIS HUGE TRUCK FULL OF ABOUT 25 WORKERS.
12 THE WORKERS ARE ALLOWED IN THE HOUSE. CERVANTEZ, PER ORDER OF
13 HIS BOSS BARBA, FEEDS THEM, GIVES THEM COFFEE, LET'S THEM REST.

14 BARBA LEAVES THE HOUSE MOMENTARILY AND COMES BACK
15 LATER WITH GUNS, AND ABOUT 20 TO 25 GUNS ARE ISSUED TO THE 25
16 EMPLOYEES. THE FOLLOWING DAY THEY LEAVE TO GO TAKE CARE OF
17 THIS BUSINESS WITH REGARD TO MARIJUANA IN MASCOTA THAT BELONGS
18 TO ZUNO.

19 LATER, AFTER THEY HAD DONE THAT, REMEMBER WHAT
20 CERVANTES TOLD YOU. BARBA TOLD HIM THAT EVERYTHING WAS OKAY,
21 THE PROBLEM HAD BEEN RESOLVED.

22 WELL, THE PROBLEM WITH RESPECT TO THE MASCOTA
23 MARIJUANA WAS RESOLVED, BUT NOT THE TROUBLE, NOT THE OUTCRY
24 WITH THE KILLING OF A FEDERAL AGENT FROM THE UNITED STATES.

25 BECAUSE YOU KNOW NOW, IN LIGHT OF THE OUTCRY THAT

28-116

1 RESULTED, EVERY SIGNIFICANT DRUG TRAFFICKER WAS GETTING OUT OF
2 THAT CITY, AND THAT INCLUDED ZUNO. HE GOT OUT OF TOWN AS WELL.

3 HE HAD TO MOVE HIS MARIJUANA FIRST, BUT HE GOT OUT OF
4 THERE BECAUSE TROUBLE WAS COMING DOWN FOR EVERYBODY WHO WAS
5 INVOLVED IN THE ABDUCTION AND MURDER OF CAMARENA.

6 A FEW DAYS LATER, BARBA SHOWS UP AT LA QUINTA, TALKS
7 TO CERVANTES AND SAYS, "IT'S TOO HOT, I HAVE TO LEAVE. I'M
8 GOING TO BE LEAVING. YOU STAY AT THE HOUSE FOR A WHILE."

9 REMEMBER WHAT CERVANTES TOLD YOU? BARBA GAVE HIM
10 SOME MONEY TO HOLD HIM OVER. HE GAVE HIM SOME BOOTS AND A .357
11 HAND GUN, AS WELL, AND HE LEAVES.

12 CERVANTES STAYS AT LA QUINTA FOR A PERIOD OF TIME AND
13 THEN THE FOLLOWING HAPPENS, LADIES AND GENTLEMEN. JAVIER
14 VASQUEZ CALLS ON THE PHONE, CERVANTES ANSWERS THE TELEPHONE,
15 AND JAVIER VASQUEZ SAYS THE FOLLOWING. "IT'S ME, JAVIER, THE
16 TIERRA LIBRE. I'M LOOKING FOR BARBA. I NEED TO TELL BARBA
17 THAT PAVON HAS KILLED THE BRAVO FAMILY."

18 AND JAVIER VASQUEZ ALSO TELLS CERVANTES THAT THE
19 BODIES AT LA PRIMAVERA, THEY NEED TO BE MOVED BECAUSE THE
20 PROPERTY WHERE THEY ARE BELONGS TO RUBEN, RUBEN ZUNO, AND RUBEN
21 WILL GET IN TROUBLE. CERVANTES SAYS I'LL REPORT TO IT MY BOSS.

22 A LITTLE BIT LATER, BARBA SHOWS UP, CERVANTES TELLS
23 HIM THE INFORMATION. BARBA GETS ON THE PHONE AND TALKS TO
24 JAVIER VASQUEZ IN THE PRESENCE OF CERVANTES AND TELLS HIM,
25 WELL, WHAT'S DONE IS DONE, AND YOU OUGHT TO MOVE THE BODIES, DO

28-117

1 SOMETHING WITH THEM. THIS IS SIGNIFICANT, AND LET ME TELL YOU
2 WHY.

3 YOU KNOW THAT THE BODIES OF CAMARENA AND ZAVALA WERE
4 DUMPED AT THE BRAVO RANCH 70 MILES SOUTHEAST OF GUADALAJARA.
5 THEY WERE NOT BURDEN THERE ORIGINALLY BECAUSE THE SOIL DID NOT
6 MATCH. JAVIER VASQUEZ TELLS YOU WHAT HAPPENS IN THAT TELEPHONE
7 CALL.

8 THE BODIES WERE BURIED AT LA PRIMEVERA PARK, THERE
9 WAS CONCERN SOMEHOW THAT ZUNO MIGHT BE IMPLICATED. THE BODIES
10 ARE EXHUMED AND DUMPED BY THE ROADSIDE IN ZAMORA BY THE BRAVO
11 RANCH. THIS IS SIGNIFICANT, LADIES AND GENTLEMEN, BECAUSE IT
12 SERVES TO CORROBORATES EVERYTHING CERVANTES IS TELLING YOU.

13 YOU HAVE THEN A TOTAL OF FIVE MEETINGS WHERE CAMARENA
14 IS DISCUSSED, AND IT IS -- THESE MEETINGS ARE CORROBORATED NOT
15 ONLY BY THE WITNESSES, BUT BY INDEPENDENT EVIDENCE, AS WELL.
16 THEY ARE CORROBORATED BY CERVANTES, WHO TOLD YOU WHAT HAPPENED,
17 BY MR. PLASCENCIA AGUILAR, WHO TOLD YOU WHAT HAPPENED.

18 THEY ARE CORROBORATED BY MR. BERNABE. WHEN HE TOOK
19 THE STAND TO TESTIFY, 95 PERCENT OF WHAT HE TOLD YOU
20 CORROBORATES WHAT THE GOVERNMENT'S WITNESSES SAID, NOT TO
21 MENTION THE GREATEST EVIDENCE OF ALL, THAT THESE MEETINGS
22 OCCURRED, AS MR. CERVANTES AND MR. PLASCENCIA TOLD YOU THEY
23 OCCURRED.

24 THE BEST EVIDENCE OF THAT IS THAT ON FEBRUARY 7TH,
25 CAMARENA AND ZAVALA ARE KIDNAPPED, AND THEY ARE TAKEN TO THE

28-118

1 LOPE DE VEGA RESIDENCE, AND THAT'S UNEQUIVOCAL BECAUSE OF THE
2 FORENSIC EVIDENCE, BUT I'LL TOUCH ON THAT MOMENTARILY.

3 I WANT TO DISCUSS THIS BRIEFLY, THE LOPE DE VEGA
4 HOUSE. SPECIAL AGENT KUYKENDALL TESTIFIED FOR YOU THAT HE
5 INTERVIEWED RUBEN ZUNO ARCE IN SAN ANTONIO, TEXAS ABOUT
6 SEPTEMBER OF 1986. ZUNO CAME VOLUNTARILY TO THAT MEETING.

7 HE MET WITH THE AGENT AND HE TOLD HIM THAT HE HAD
8 ACQUIRED THAT LOPE DE VEGA PROPERTY ABOUT 25 YEARS AGO, AS AN
9 INHERITANCE, AND THAT AT THE TIME HE GOT IT, THERE WERE NO
10 BUILDINGS ON THE PROPERTY, BUT HE PROCEEDED TO BUILD A HOUSE, A
11 POOL, AN OUTBUILDING, A TENNIS COURT, ET CETERA.

12 ZUNO ALSO TOLD AGENT KUYKENDALL THAT HE HAD LEASED
13 THE PROPERTY TO ABOUT THE MIDDLE OF 1984, AND THAT IN DECEMBER
14 OF 1984, HE MET WITH RUBEN SANCHEZ BARBA TO DISCUSS THE SALE OF
15 THE HOUSE. AND THE ACTUAL, FINAL TRANSACTION HAPPENED ABOUT
16 JANUARY 9 OF 1985.

17 YOU HAVE THE HOUSE WHERE THE TORTURE OF CAMARENA
18 OCCURRED, AND THAT HOUSE BELONGED TO RUBEN ZUNO ARCE UP TO THE
19 MOMENT OF THE ABDUCTION AND KIDNAPPING.

20 FEBRUARY 8: WE KNOW THAT THIS HAS HAPPENED AT LOPE
21 DE VEGA, COURTESY OF MR. GEORGE GOMEZ ESPANA, WHO TESTIFIED FOR
22 YOU.

23 REMEMBER THE REAL ESTATE SALESMAN WHO WORKED AT TERRA
24 NOVA? REMEMBER HE TOLD YOU THAT IN JANUARY OF '85, HE AND
25 OTHERS WENT TO LOPE DE VEGA TO INSPECT IT, BECAUSE IT WAS GOING

28-119

1 TO GO UP ON THE MARKET. IT WAS VACANT, IT WAS BEING REPAINTED,
2 NEW RUGS WERE BEING PUT IN, LANDSCAPING, NEW FURNITURE. NOW
3 THAT IS IMPORTANT. LET ME TELL YOU WHY.

4 THAT'S THE WAY YOU KNOW THAT ANY FORENSIC EVIDENCE
5 THAT WAS DEPOSITED AT THE LOPE DE VEGA HOUSE HAD TO HAVE
6 OCCURRED AFTER JANUARY OF 1985. AND THAT BLOWS OUT OF THE
7 WATER ANY POSSIBLE ARGUMENT. WELL, THE HAIRS WERE THERE TWO
8 YEARS AGO OR SOMETHING. THAT'S NOT THE CASE, NOT WHEN YOU HAVE
9 NEW RUGS PUT IN, NOT WHEN THE PLACE IS BEING REPAINTED.

10 GOMEZ ESPANA TOLD YOU THAT ON FEBRUARY 8TH, HE GOES
11 TO THE HOUSE WITH OTHERS. AND GOMEZ GOES THERE BECAUSE HE
12 WANTS TO MEET WITH CARO TO DISPEL THIS RUMOR THAT HE IS AN
13 INFORMANT SOMEHOW.

14 WELL, EVENTUALLY, JORGE GOMEZ ESPANA ENTERS THE LOPE
15 DE VEGA HOUSE. HE WAITS IN THE KITCHEN AREA WHILE HIS FRIEND,
16 GUILLERMO, WILLIE, WAS THERE MEETING WITH SOMEONE IN THE BACK.
17 WHILE HE WAITS IN THE KITCHEN, MR. GOMEZ ESPANA, HE SEES 10
18 AR-15'S IN THE KITCHEN AREA, HE SEES A MAN COOKING, AND HE
19 HEARS THE VOICE OF CARO QUINTERO IMMEDIATELY IN THE NEXT ROOM,
20 IN THE BACK. HE KNOWS THAT'S HIS VOICE BECAUSE HE HAS MET HIM
21 BEFORE.

22 AFTER THIS, GOMEZ ESPANA LEAVES, AND WHO WALKS OUT OF
23 THE HOUSE WITH HIM BUT RENE VERDUGO AND THIS COMANDANTE. YOU
24 KNOW WHO RENE VERDUGO IS. HIS FAIR WAS FOUND AT THE LOPE DE
25 VEGA HOUSE.

28-120

1 RENE VERDUGO GETS IN THE CAR AND ASKS FOR A RIDE TO
2 THE HYATT HOTEL, AND DURING THE RIDE TO THE HOTEL, A COUPLE OF
3 SIGNIFICANT THINGS. NUMBER ONE, VERDUGO LOOKS VERY, VERY
4 TIRED. YOU CAN SURMISE WHY. WHEN YOU HAVE BEEN INTERROGATING
5 SOMEONE FOR HOURS, YOU'RE GOING TO BE TIRED.

6 AND THEN HE ALSO SAYS IN THE PRESENCE OF JORGE GOMEZ
7 ESPANA, "I HAD A PROBLEM. I JUST TOOK CARE OF IT." AND THEN
8 HE TURNS TO THE COMANDANTE AND SAYS, "COMANDANTE, DIDN'T WE
9 JUST TAKE CARE OF A PROBLEM?"

10 YOU KNOW WHAT THE PROBLEM IS THAT THEY WERE REFERRING
11 TO. IT WAS CAMARENA WHO WAS BEING TORTURED AT THAT HOUSE.

12 LEST THERE BE ANY QUESTIONS ABOUT THE NOTION OR
13 SUGGESTION THAT THIS FEDERAL AGENT WAS TORTURED, YOU SAW ON
14 THIS WALL THOSE TORTURE TAPES BEING PLAYED FOR YOU. AND THOSE
15 TAPES WERE OBTAINED FROM THE GOVERNMENT OF MEXICO IN AUGUST OF
16 1985, AND THE VOICES ON THOSE TORTURE TAPES WERE IDENTIFIED FOR
17 YOU BY GOVERNMENT WITNESS TESTIMONY.

18 AGENT DALE STINSON, AGENT ROBERT CASTILLO -- THEY
19 HEARD AND WERE FAMILIAR WITH VOICES OF CARO AND SERGIO ESPINO
20 VERDIN, BECAUSE THEY SAT IN ON INTERVIEWS. AND THEY TAPED
21 THEM, REMEMBER, AND THEY KEPT THE TAPES.

22 THEN THEY WERE GIVEN THE TORTURE TAPES AND ASKED IF
23 THEY RECOGNIZED ANY VOICES. AND THEY DID. ON COPIA 2, TAPE
24 NUMBER 2, ESPINO VERDIN IS THE PRIMARY INTERROGATOR.

25 ON COPIA 4, ESPINO VERDIN AGAIN IS THE PRIMARY

28-121

1 INTERROGATOR, AND CARO QUINTERO'S VOICE IS ALSO IDENTIFIED.
2 REMEMBER WHAT THE AGENTS TOLD YOU ABOUT THE UNIQUE QUALITY OF
3 THE VOICES OF THESE DEFENDANTS. THEY WERE BOTH FROM THE
4 NORTHERN PART OF MEXICO AREA. ESPINO HAD GOOD GRAMMAR, HE WAS
5 EDUCATED, CONTRASTED WITH CARO, WHO WAS UNEDUCATED AND VERY
6 GRUFF AND USED SLANG. CARO DID.

7 AND ESPINO -- THIS IS IMPORTANT -- ESPINO SPOKE WITH
8 A COMMANDING VOICE BECAUSE HE USED TO BE A COMMANDANTE, AND HE
9 SPOKE IN A LOW, MONOTONE VOICE. BUT WHEN YOU HEARD THESE
10 TAPES, LADIES AND GENTLEMEN, YOU COULD DISCERN THAT FROM THE
11 TORTURE TAPES, BECAUSE IT WAS ESPINO CONDUCTING THE
12 INTERROGATION. AND THAT WAS CAMARENA'S VOICE ON THE TAPE, AS
13 WELL, BECAUSE YOU HAVE HAD SUFFICIENT EVIDENCE ABOUT THAT.

14 AGENT KUYKENDALL, HIS CLOSE FRIEND, RECOGNIZED THE
15 VOICE OF CAMARENA ON THE TAPE. IN ADDITION, CAMARENA, IF YOU
16 LISTEN JUST TO THE SUBSTANCE OF WHAT WAS ACTUALLY BEING SAID,
17 CAMARENA REFERS TO KUYKENDALL TWICE. CAMARENA MENTIONS HIS
18 POLITICIAN FRIEND THAT ONLY KUYKENDALL AND CAMARENA KNEW ABOUT.
19 THERE ARE EVEN DIRECTIONS TO THE HOUSE OF SHAGGY WALLACE, ONE
20 OF THE AGENTS THAT BELONGED TO THE D.E.A. THERE WERE QUESTIONS
21 ABOUT D.E.A. INVESTIGATIONS.

22 ALL OF THIS INFORMATION WAS SO UNIQUE THAT ONLY
23 CAMARENA KNEW IT. THAT'S HOW YOU KNOW THAT IT WAS CAMARENA'S
24 VOICE ON THESE TORTURE TAPES.

25 WHAT DO THEY PROVE? FIRST OF ALL, THE ELEMENTS OF

28-122

1 TORTURE AND INTERROGATION. AND SECOND OF ALL, THAT THE
2 INTERROGATION OCCURRED AT LOPE DE VEGA. AND YOU KNOW THAT
3 BECAUSE IF YOU FOLLOW THE DIRECTIONS THAT CAMARENA GIVES WHEN
4 HE'S BEING INTERROGATED AS TO HOW TO GET TO A CERTAIN HOUSE, A
5 HOUSE THAT BELONGS TO FONSECA, KUYKENDALL TOLD THAT HE DID
6 THAT. AND WHEN YOU FOLLOW HIS DIRECTIONS AND YOU START AT LOPE
7 DE VEGA, YOU END UP AT THE FONSECA HOUSE. THAT TAPE SHOWS THE
8 INTERROGATION WAS AT LOPE DE VEGA.

9 THE TORTURE TAPES CORROBORATE THE FORENSIC EVIDENCE
10 IN THIS CASE. ESPINO'S VOICE IS ON THE TORTURE TAPES, ESPINO'S
11 HAIR IS AT LOPE DE VEGA. CARO QUINTERO'S VOICE IS ON THE
12 TORTURE TAPE. CARO QUINTERO WAS AT LOPE DE VEGA ON FEBRUARY
13 8TH. THAT'S WHAT GEORGE GOMEZ ESPANA TOLD YOU.

14 AND FINALLY, PERHAPS MOST SIGNIFICANT, LADIES AND
15 GENTLEMEN, THESE TORTURE TAPES SHED LIGHT ON THE MOTIVE. WHY
16 DO THIS? WHY BRUTALIZE AN AGENT IN THIS FASHION?

17 YOU HEARD THOSE TAPES WHEN WE PLAYED THEM FOR YOU,
18 THE WHOLE PURPOSE OF THE TAPES WAS TO QUESTION THE AGENT ABOUT
19 WHO HE KNEW, WHO WERE THE INFORMANTS, WHO WERE THE AGENTS,
20 WHERE DID THE AGENTS LIVE, WHERE DID THE INFORMANTS LIVE. THAT
21 CORRBORATES CERVANTES.

22 CERVANTES TOLD YOU THAT THE REASON THEY HAD THE
23 MEETINGS WAS TO FIND OUT WHO WAS RESPONSIBLE AND WHAT HE KNEW.
24 AND LO AND BEHOLD, THAT'S WHAT HAPPENS DURING THE ACTUAL
25 INTERROGATION OF CAMARENA.

28-123

1 NOW, YOU HEARD SOME SIGNIFICANT AND, I HOPE,
2 COMPREHENSIBLE FORENSIC EVIDENCE IN THIS CASE, PRIMARILY
3 THROUGH SPECIAL AGENT MIKE MALONE, AN EXPERIENCED INVESTIGATOR
4 WITH THE FEDERAL BUREAU OF INVESTIGATION. HE HAS BEEN DOING IT
5 FOR ALMOST 20 YEARS. HE IS A SENIOR EXAMINER IN THE HAIR AND
6 FIBERS UNIT OF THE F.B.I., WHICH THE DEFENSE OWN WITNESS
7 ADMITTED WAS VERY WELL REGARDED.

8 HE WENT ON AT GREAT LENGTH -- AND I WON'T REPEAT
9 IT -- BUT HE HAS HAD INCREDIBLE TRAINING, HAS EXAMINED
10 THOUSANDS AND THOUSANDS OF HAIRS. HE TAKES FINAL EXAMS, AND
11 EVERY TIME HE PASSES EXAMS WITH FLYING COLORS. HE HAS TAUGHT,
12 HE HAS PUBLISHED. THIS MAN KNOWS HIS STUFF. THAT IS
13 UNEQUIVOCAL.

14 AND HIS CONCLUSION TO YOU AFTER PERHAPS A FULL DAY OF
15 TESTIMONY, WAS THAT CAMARENA WAS AT THE LOPE DE VEGA HOUSE AND
16 PARTICULARLY IN THE GUEST HOUSE. AND CAMARENA HAD HAIR
17 FORCIBLY REMOVED FROM HIM IN THE GUEST HOUSE.

18 HOW DOES MALONE KNOW THIS? SPECIAL AGENT MALONE TOLD
19 YOU THAT HE WAS ALLOWED, FINALLY, ON THE LOPE DE VEGA RESIDENCE
20 ON APRIL 12. WHAT DOES HE SEE WHEN GETS THERE? IT BOGGLES THE
21 IMAGINATION. HE SEES MEXICAN TECHNICIANS LEAVING THE LOPE DE
22 VEGA HOUSE WITH EVIDENCE.

23 WHEN MALONE IS FINALLY ALLOWED ON THE PROPERTY, FIRST
24 HE DOES A WALK THROUGH OF THE WHOLE HOUSE, FIRST THE BEDROOMS
25 AND THEN THE GUEST HOUSE. IN THE BEDROOMS, HE NOTICES THAT ALL

28-124

1 THE ROOMS HAVE BEEN FRESHLY PAINTED.

2 AND HE ALSO WALKS THROUGH THE GUEST HOUSE. AND THE
3 REASON HE'S DOING ALL THIS IS BECAUSE HE'S TRYING TO BE LOGICAL
4 ABOUT THIS. REMEMBER WHAT HE TOLD YOU? "I WAS TRYING TO
5 ASCERTAIN WHAT WOULD BE THE MOST LOGICAL PLACE TO KEEP SOMEONE
6 AGAINST THEIR WILL AS A PRISONER."

7 WELL, HE FOUND THAT ROOM. IT IS A MISNOMER, BUT IT
8 IS CALLED A GUEST HOUSE IN THE BACK OF THE MAIN RESIDENCE AT
9 LOPE DE VEGA. REMEMBER WHAT HE TOLD YOU ABOUT THIS PARTICULAR
10 ROOM? HE SAID THAT IT WAS IDEAL.

11 FIRST OF ALL, THIS GUEST HOUSE WAS MOSTLY STORAGE
12 ROOM, BUT IT DID HAVE ONE ROOM THAT WAS ABOUT 10 FEET BY 10
13 FEET WITH AN ADJOINING BATHROOM.

14 HE ALSO TOLD YOU THAT IT HAD AN OLD RUG, BUT THE
15 WALLS OF THAT TEN-BY-TEN ROOM HAD BEEN FRESHLY PAINTED. AND HE
16 ALSO TOLD YOU THAT WHEN YOU WENT TO THE SHOWER THAT WAS IN THE
17 BATHROOM ADJACENT TO THE TEN FOOT-BY-TEN FOOT ROOM, IT HAD BEEN
18 FRESHLY CLEANED AND PAINTED UP TO SIX FEET, A HEIGHT OF SIX
19 FEET. AND ABOVE THAT, IT WAS GRIMY AND DIRTY. YOU KNOW WHAT
20 HAPPENED.

21 THESE CORRUPT OFFICIALS WENT THROUGH THAT HOUSE, THEY
22 TRIED TO DESTROY EVIDENCE, THEY REPAINTED IT TO TRY TO THROW
23 OFF OUR AGENTS -- TO TRY TO THROW OUR AGENTS OFF THE TRACK.

24 MR. STOLAR: YOUR HONOR, I'M GOING TO OBJECT. THERE
25 IS ABSOLUTELY NO TESTIMONY OF THAT NATURE IN THIS CASE.

1 THE COURT: THE COURT WILL ADMONISH THE JURY, AND I
2 ALREADY HAVE, THAT STATEMENTS OF COUNSEL ARE NOT EVIDENCE.
3 COUNSEL ARE PERMITTED TO ARGUE WHAT THE EVIDENCE IS AND ANY
4 REASONABLE INFERENCE THAT CAN DRAWN FROM THE EVIDENCE. SO YOU
5 HAVE TO ULTIMATELY DECIDE WHAT THE EVIDENCE IS IN THE CASE.

6 MR. MEDRANO: THANK YOU, YOUR HONOR.

7 LADIES AND GENTLEMEN, HE TOLD YOU THAT THIS GUEST
8 HOUSE HERE, GOVERNMENT EXHIBIT 111-G, WAS THE PERFECT SITE;
9 NUMBER ONE, BECAUSE OF THE THICK WALLS, AND IT HAD SMALL
10 WINDOWS AND A STEEL DOOR. AND THOSE THICK WALLS WOULD PREVENT
11 SOUND FROM LEAVING.

12 THE FINDINGS OF MALONE WITH REGARD TO THE LOPE DE
13 VEGA HOUSE -- AND IT'S INCREDIBLE.

14 FIRST, WITH REGARD TO FABRICS. FABRIC FROM THE
15 BURIAL SHEET OF CAMARENA MATCHED PILLOW CASES THAT WERE TAKEN
16 FROM BEDROOMS 3 AND 5 OF THE LOPE DE VEGA HOUSE.

17 CARPET FIBERS: YOU RECALL THERE WERE NEW CARPETS
18 THERE. VIRTUALLY ALL THE ROOMS WERE A LIGHT BEIGE COLOR. ONE
19 OF THE BEDROOMS, I THINK BEDROOM NUMBER THREE, WAS LIKE A ROSE
20 COLOR.

21 WELL, CARPET FIBERS FROM THAT WERE FOUND ON CLOTHES
22 OF ZAVALA MATCHED CARPET FIBERS OF THE GUEST HOUSE, THE CARPET
23 OF THE GUEST HOUSE. CARPET FIBERS FROM THE CAMARENA BLINDFOLD
24 AND THE BURIAL SHEET MATCHED CARPET FIBERS FROM CARPETS IN
25 BEDROOMS IN BEDROOMS 3 AND 4.

28-126

1 HAIR: MR. MALONE TOLD YOU THAT HEAD HAIR FROM
2 CAMARENA MATCHED HEAD HAIR FOUND IN THE MERCURY. HEAD HAIR
3 FROM CAMARENA MATCHED HAIRS FOUND IN THE V.W. ATLANTIC. HEAD
4 HAIR FROM CAMARENA MATCHED HAIR FOUND IN THE GUEST HOUSE, AND
5 HAIR FROM CAMARENA MATCHED HAIR FOUND OF CAMARENA IN BEDROOM
6 NUMBER 4.

7 KEEP THIS IN MIND. THE HAIR OF CAMARENA THAT WAS
8 FOUND IN THE V.W., THE GUEST HOUSE, AND BEDROOM NUMBER 4, HAD
9 BEEN FORCIBLY REMOVED ACCORDING TO SPECIAL AGENT MALONE.

10 AND OF COURSE, IN ADDITION TO CAMARENA'S HAIR,
11 SPECIAL AGENT MALONE FOUND HAIRS IN THE GUEST HOUSE THAT WERE
12 SIMILAR TO HAIRS FROM THE HEAD OF MATTA BALLESTEROS, VERDUGO
13 AND ESPINO VERDIN. SPECIAL AGENT MALONE FOUND HAIRS IN BEDROOM
14 NUMBER 4 THAT MATCHED HAIRS FROM MATTA, AS WELL.

15 NOW, YOU HEARD IN THIS CASE, AS PART OF THE DEFENSE
16 CASE, A HAIR EXPERT BY THE NAME OF SKIP PALENICK. LADIES AND
17 GENTLEMEN, HE'S A VERY QUALIFIED INDIVIDUAL. HIS CREDENTIALS
18 WERE IMPECCABLE. 17 YEARS ON THE JOB, A BACHELOR OF SCIENCE IN
19 CHEMISTRY. HE HAS BEEN PUBLISHED, HE HAS TESTIFIED INNUMERABLE
20 TIMES. AND I TELL YOU ALL THAT BECAUSE THE TESTIMONY OF
21 PALENICK SERVES TO CORROBORATE EVERYTHING THAT MALONE TOLD YOU.

22 THE HEART OR GIST OF WHAT PALENICK TOLD YOU IS THAT
23 HAIR COMPARISON IS NOT A HUNDRED PERCENT SURE LIKE A PRINT.
24 MALONE TOLD YOU THE SAME THING. NO ONE HAS EVER SAID IT IS A
25 HUNDRED PERCENT SURE MATCH, LIKE A FINGERPRINT.

28-127

1 PALENICK ALSO TOLD YOU, WELL, WHEN YOU DO HAIR
2 COMPARISONS, THERE IS AN ELEMENT OF SUBJECTIVE ANALYSIS. BIG
3 DEAL. MALONE TOLD THAT YOU AS WELL. BUT BOTH MALONE AND
4 PALENICK JOINTLY TOLD YOU THAT THE MORE YOU DO IT, THE MORE
5 EXPERIENCE YOU HAVE, THE MORE HAIRS YOU REVIEW, THE BETTER YOU
6 ARE AT IT. AND HENCE, THE STRONGER YOUR FINDINGS.

7 MUCH, AS I TOLD YOU, OF WHAT PALENICK SAID SUPPORTED
8 MALONE. THE METHOD OF ANALYSIS WAS THE SAME. REMEMBER THE LOW
9 POWER AND HIGH POWER MICROSCOPES.

10 PALENICK TOLD YOU, LIKE MALONE DID, THAT YOU NEED A
11 REPRESENTATIVE SAMPLE FROM THE SCALP, ABOUT 25 TO 60 HAIRS, TO
12 DO A COMPARISON.

13 PALENICK, LIKE MALONE, TOLD YOU THAT WITH THE HAIR
14 YOU CAN ASCERTAIN RACE: CAUCASIAN, MONGOLOID, NEGROID. AND
15 PALENICK, MOST SIGNIFICANTLY, ADMITTED THAT THE HAIR AND FIBER
16 UNIT OF THE FEDERAL BUREAU OF INVESTIGATION IS VERY, VERY WELL
17 REGARDED.

18 NOW, I'D LIKE TO TALK JUST BRIEFLY ABOUT JAVIER
19 VASQUEZ. JAVIER VASQUEZ IS A BODYGUARD. THAT'S WHY HE EXISTED
20 IN '84 AND '85. YOU HAVE HEARD TESTIMONY THAT HE WAS A BODY-
21 GUARD AT BOTH LA QUINTA, BARBA'S HOUSE, AND LA BAJADITA, THE
22 HOUSE OF FONSECA.

23 MR. CERVANTES TOLD YOU -- REMEMBER THE TWO TIMES THAT
24 CREDENTIALS WERE BROUGHT BY ZUNO TO BARBA? THERE WAS JAVIER
25 VASQUEZ AS A BODYGUARD. FOR THE MEETINGS TO DISCUSS THE

28-128

1 KIDNAPPING OF CAMARENA, OUTSIDE THE LIVING ROOM AS A SECURITY
2 GUARD WAS JAVIER VASQUEZ. AT THE BAPTISM SEPTEMBER OF '84
3 MEETING, AT THE OCTOBER '84 WEDDING MEETING, AND FINALLY AT THE
4 BAJADITA MEETING IN DECEMBER OF 1984.

5 NOW, JAVIER VASQUEZ, LADIES AND GENTLEMEN, WAS
6 INVOLVED NOT ONLY WITH THIS ENTERPRISE, BUT HE WAS ALSO
7 INVOLVED WITH THE MURDERS OF RADELAT AND WALKER. AND YOU KNOW
8 THIS FOR THE FOLLOWING REASONS.

9 HE WAS AT LA LANGOSTA. CERVANTES TOLD YOU THAT HE
10 LEFT THE HOUSE WITH BARBA TO GO TO LA LANGOSTA. AND THEN LATER
11 ON, BARBA COMES BACK AND HE'S ALL BLOODY. HE WAS AT THE ACTUAL
12 RESTAURANT AND OBSERVED THE BEATINGS BEFORE THEY TAKE THEM TO
13 THE STORAGE ROOM FOR MURDER OF RADELAT AND WALKER. HE WAS AN
14 EYEWITNESS -- PLASCENCIA WAS.

15 AND AGAIN, JAVIER VASQUEZ IS IDENTIFY THROUGH THESE
16 PHOTO SPREADS. AND AGAIN, NOTE THE CHANGED APPEARANCE, AND
17 THAT EXPLAINS PLASCENCIA'S INABILITY TO IDENTIFY HIM IN COURT.

18 IN ADDITION TO THE PHOTOSPREADS, EXHIBIT 173,
19 PHOTOGRAPH NUMBER 8, PLASCENCIA WAS ALSO SHOWN GOVERNMENT
20 EXHIBIT 179, WHICH IS A FAMILY PHOTO. AND AGAIN, THERE IS
21 ANOTHER PHOTOGRAPH THAT PLASCENCIA IDENTIFIED AS JAVIER VASQUEZ
22 VELASCO.

23 AND I ASK YOU TO SIT AND LOOK AT THESE AND THEN
24 COMPARE TO HOW JAVIER VASQUEZ LOOKS IN COURT TODAY. AND LET
25 THERE BE NO DOUBT THAT NO ONE COACHED PLASCENCIA ABOUT

28-129

1 IDENTIFYING ANYBODY IN ANY PHOTOGRAPHS. REMEMBER WHAT THE
2 AGENTS TOLD YOU? WE SHOWED HIM PHOTOGRAPHS AND WE ASKED HIM IF
3 HE RECOGNIZES ANYBODY, AND HE IMMEDIATELY PICKED OUT THESE
4 PEOPLE, INCLUDING JAVIER VASQUEZ.

5 AFTER THE MURDER OF RADELAT AND WALKER, YOU HAVE
6 JAVIER VASQUEZ'S CONVERSATION WHERE CERVANTES -- DO YOU RECALL
7 THAT -- WHERE HE TELLS CERVANTES TO TELL BARBA THAT THE TWO
8 AMERICANS ARE DEAD, AND THAT THEY HAVE BEEN STABBED WITH ICE
9 PICKS.

10 OTHER EVIDENCE YOU HAVE OF JAVIER BARBA'S
11 INVOLVEMENT. WHEN EVERYONE IS ON THE RUN AFTER THE ABDUCTION
12 OF CAMARENA, REMEMBER THE MEETING THAT ZUNO HAS WITH BARBA.
13 AND ZUNO IS IMPLORING BARBA FOR HELP TO MOVE THE FIVE TONS THAT
14 ARE BURIED IN MASCOTA.

15 IT IS JAVIER VASQUEZ THAT GOES AND GETS THE 25
16 EMPLOYEES TO MOVE THAT, THOUGH. AND LATER ON, JAVIER VASQUEZ
17 CALLS CERVANTES AND THEN TALKS ABOUT THE PROBLEM FAMILY AND HOW
18 THE BODIES HAVE TO BE MOVED FROM LA PRIMAVERA BECAUSE RUBEN
19 ZUNO IS GOING TO GET IN TROUBLE.

20 YOU RECALL WHEN ABEL REYNOSO TESTIFIED ABOUT HIS
21 INTERVIEWS OF JAVIER VASQUEZ. THE FIRST ATTEMPTED INTERVIEW WAS
22 ON JULY 12 OF 1989. JAVIER VASQUEZ TELLS REYNOSO THE FOLLOWING
23 ON JULY 12. "I HAVE SENSITIVE INFORMATION AND ALSO INFORMATION
24 REGARDING CAMARENA, BUT I NEED TO TALK TO MY BROTHERS BEFORE I
25 TALK TO YOU." AND JAVIER VASQUEZ ALSO SAYS THAT "I NEED TO CUT

28-130

1 A DEAL BEFORE I TALK ANY FURTHER".

2 AND THEN HE ENDS IT BY SAYING ON JULY 12, "I NEED TO
3 DO THAT BECAUSE WHAT I KNOW CAN GET ME KILLED."

4 DOES THIS SOUNDS FAMILIAR? WHEN THEY INTERVIEWED
5 MATTA IN BOGOTA IN APRIL OF 1985, HE SAID VIRTUALLY THE SAME
6 THING. HE HAD INFORMATION, IT WAS PERCIPIENT PERSONAL
7 KNOWLEDGE INFORMATION, BUT HE COULD GET KILLED IF HE SPOKE.

8 OF COURSE THEY BOTH HAVE SUCH KNOWLEDGE, BECAUSE BOTH
9 OF THESE MEN WERE INVOLVED, LADIES AND GENTLEMEN, IN THE
10 ENTERPRISE AND IN THESE PARTICULAR MURDERS.

11 NOW, LET'S CLEAR SOMETHING UP IMMEDIATELY AND LAY IT
12 TO REST, IF THERE IS ANY QUESTION AT ALL THAT THIS DEFENDANT
13 JAVIER VASQUEZ IS TRYING TO PORTRAY HIMSELF TO YOU AS AN
14 INNOCENT PERSON WHO DIDN'T KNOW WHAT HAPPENED AT LA LANGOSTA.

15 WELL, WHEN HE WAS INTERVIEWED BY ABEL REYNOSO ON JULY
16 14, HE TOLD YOU A LOT OF THINGS. AND PERHAPS JAVIER VASQUEZ
17 OUT SMARTED HIMSELF, BECAUSE, YES, HE NEVER SAYS THAT HE
18 PERSONALLY WAS INVOLVED AT LA LANGOSTA. HE LAYS IT OFF ON
19 SOMEBODY ELSE, OR THAT HE HEARD IT FROM SOMEBODY ELSE. BUT HE
20 TELLS YOU A MULTITUDE OF INFORMATION THAT CORROBORATES
21 WITNESSES IN THE GOVERNMENT'S CASE.

22 LET ME GIVE YOU AN EXAMPLE. THAT MAN, JAVIER
23 VASQUEZ, ADMITS IN HIS CONVERSATIONS WITH ABEL REYNOSO, TO
24 KNOWING MANY MEMBERS OF THIS ENTERPRISE: EZEQUIEL GODINEZ, EL
25 ITALIANO, ONE OF THE BODYGUARDS, CORITA, ONE OF THE BODYGUARDS.

28-131

1 HE KNOWS BARBA. HE ALSO ADMITS KNOW ESPINO. AND, IN FACT,
2 JAVIER ADMITS TO ABEL REYNOSO THAT ESPINO EVEN GAVE HIM SPECIAL
3 POLICE IDENTIFICATION.

4 HE ADMITS TO ABEL REYNOSO KNOWING CARO QUINTERO, HE
5 ADMITS TO ABEL REYNOSO KNOWING FONSECA. AND IN FACT, HE EVEN
6 SAYS THAT I HEARD ABOUT WHEN FONSECA WAS ARRESTED, AND I
7 IMMEDIATELY WENT INTO HIDING. I WENT TO A HOTEL. NOT EVEN MY
8 WIFE KNEW WHERE I WAS. ABEL REYNOSO TOLD YOU THAT BECAUSE
9 THOSE WERE HIS WORDS.

10 LADIES AND GENTLEMEN, WHY IS A MAN ON THE RUN UNLESS
11 YOU'RE PART AND PARCEL OF THIS ORGANIZATION, OF THIS
12 ENTERPRISE.

13 HE ADMITS THAT HE KNOWS BARBA, THAT HE HAS BEEN TO
14 BARBA'S HOUSE, LA QUINTA, SEVERAL TIMES WITH HIS BROTHER, AND
15 HE ADMITS THAT HE RECEIVED A D.F.S. CREDENTIAL FROM BARBA.
16 THAT CORROBORATES CERVANTES. REMEMBER WHEN CERVANTES TOLD YOU
17 THAT ZUNO BROUGHT OVER D.F.S. CREDENTIALS, ONE OF WHICH WAS FOR
18 JAVIER VASQUEZ? JAVIER VASQUEZ CORROBORATES THAT FOR YOU
19 THROUGH THESE STATEMENTS OF SPECIAL AGENT ABEL REYNOSO.

20 HE TALKS ABOUT HOW THE BODIES WERE BURIED AT EL
21 MORENO RANCH. HE SAYS HE KNOWS A VARIETY OF DRUG TRAFFICKERS,
22 AND HE DROPS NAMES RIGHT AND LEFT, INCLUDING CARO, FONSECA,
23 BARBA. HE ADMITS THAT HE AND THE TIERRA LIBRE BROTHERS
24 FREQUENTLY WENT TO THESE DRUG TRAFFICKERS TO BARBECUES,
25 WEDDINGS, ET CETERA.

1 HE ADMITS, HIMSELF, THAT HE'S INVOLVED IN MARIJUANA.
2 HE SAID SPECIFICALLY THAT HE WENT TO ZACATECAS WITH HIS
3 BROTHERS TO HELP LOAD HUGE QUANTITITES OF MARIJUANA ON TO
4 TANKER TRUCKS. IT WAS SEVERAL TONS, IN FACT.

5 BUT MOST SIGNIFICANTLY, HE TELLS YOU ALL THIS, WHICH
6 CORRBORATES THE GOVERNMENT'S WITNESSES, AND ON THE KEY ISSUE,
7 LA LANGOSTA, HE DENIES PERSONAL KNOWLEDGE.

8 HE WAS NOT THERE. HE HEARD EVERYTHING THAT HE JUST
9 TOLD ABEL REYNOSO, WHICH WAS TREMENDOUS DETAIL, YOU MAY RECALL.
10 INCREDIBLE DETAIL ABOUT WHAT WENT ON INSIDE THAT RESTAURANT,
11 BUT HE EXPLAINS IT BY SAYING "WELL, MY BROTHER ELISEO TOLD ME
12 ABOUT THIS." ELISEO IS DEAD. ELISEO IS NOT HERE TO EXPLAIN.

13 LADIES AND GENTLEMEN, IN THE GOVERNMENT'S EVIDENCE IN
14 OUR CASE WE BROUGHT TO YOU ESTELLA FUENTES, THE ESTRANGED,
15 SEPARATED WIFE OF JAVIER VASQUEZ. AND YOU WILL RECALL SHE TOLD
16 YOU A FEW THINGS, BUT LET ME JUST START OUT WITH WHAT SHE TOLD
17 YOU WHEN SHE TESTIFIED FOR THE GOVERNMENT.

18 SHE TOLD YOU THAT SHE MARRIED JAVIER VASQUEZ, AND
19 THEY LIVED TOGETHER BETWEEN '74 TO '81. THEY BROKE UP.
20 ESTELLA FUENTES GOES TO HOUSTON, TEXAS, THE DEFENDANT RETURNS
21 TO MEXICO.

22 THEREAFTER, THERE ARE ATTEMPTS AT RECONCILIATION.
23 THEY HAVE A FEW VACATIONS TOGETHER. THEY EVEN GOT TOGETHER FOR
24 CHRISTMAS VACATION OF '84, BUT SHE BROUGHT THE KIDS BACK BY
25 JANUARY 2 BECAUSE THEY HAD TO BE BACK IN SCHOOL.

1 BUT MOST SIGNIFICANTLY, SHE TOLD YOU THAT HER LAST
2 CONTACT WITH THE DEFENDANT WAS DECEMBER OF 1985, AND SHE HAD
3 NOT HEARD A PEEP FROM HIM, NOT A WORD, NO LETTERS, NO
4 CORRESPONDENCE, NO PHONE CALLS, NOTHING FOR FOUR OR FIVE YEARS
5 UNTIL LO AND BEHOLD, SHE GETS A LETTER IN NOVEMBER OF 1989,
6 LATE LAST YEAR, FROM JAVIER VASQUEZ.

7 AND IN THIS LETTER, JAVIER VASQUEZ SAYS SEVERAL
8 THINGS. FIRST, HE GOES ON AD NAUSEUM ABOUT HOW HE'S BEING
9 PERSECUTED BY THE D.E.A. AND THAT THIS AGENT REYNOSO IS TRYING
10 TO NAIL HIM. AND HE SAYS THIS AND THAT, BUT YOU KNOW WHY HE'S
11 DOING IT. HE'S TRYING TO GAIN THE SYMPATHY OF HIS FORMER WIFE.

12 AND THEN WE COME TO THE HEART OF THE MATTER, THE
13 HEART OF THAT LETTER. BY THE WAY, THE LETTER SAYS, ACCORDING
14 TO ESTELLA FUENTES, I JUST WANTED TO REMIND YOU ABOUT THAT
15 VACATION WE TOOK TOGETHER, YOU, ME AND THE KIDS. AND REMEMBER
16 THAT DATE? IT WAS ABOUT THE END OF JANUARY TO EARLY FEBRUARY.
17 THIS IS AN ATTEMPT OF GENERATING AND CREATING A FALSE ALIBI.

18 THAT'S WHY ESTELLA FUENTES TESTIFIED. AND YOU SAW
19 HER DEMEANOR, SHE WAS NOT HERE HAPPILY. SHE WAS HERE
20 RELUCTANTLY, BUT SHE TOLD THE TRUTH THE FIRST TIME SHE WAS
21 HERE, BECAUSE THAT'S WHAT YOU'RE SUPPOSED TO DO WHEN YOU'RE
22 UNDER OATH.

23 HOWEVER, A SHORT THREE WEEKS LATER, ESTELLA FUENTES
24 REAPPEARS IN THIS COURTROOM, THIS TIME ON BEHALF OF THE
25 DEFENSE, AND THIS TIME SHE'S SINGING A DIFFERENT TUNE. THIS

28-134

1 TIME SHE TELLS YOU WELL, I MET WITH THE GOVERNMENT PROSECUTORS
2 AND AGENT REYNOSO IN JANUARY OF 1990.

3 I FLEW OUT HERE FROM HOUSTON AND I TOLD THEM ABOUT
4 THE CHRISTMAS TRIP, AND I TOLD THEM ABOUT THREE OTHER TRIPS
5 THAT I TOOK WITH JAVIER VASQUEZ BETWEEN JANUARY AND MARCH OF
6 1985. AND I TOLD THE GOVERNMENT PROSECUTORS SPECIFICALLY THAT
7 ONE OF THOSE TRIPS WAS THE END OF JANUARY OF 1985.

8 LADIES AND GENTLEMEN, SHE NEVER SAID THAT. SHE WAS
9 NEVER SPECIFIC ABOUT THE DATES WHEN SHE WAS INTERVIEWED
10 PREVIOUSLY. CLEARLY WHAT HAPPENED IS THAT AFTER TESTIFYING THE
11 FIRST TIME, AND PERHAPS REALIZING THE SIGNIFICANCE AND THE
12 NEGATIVE IMPACT OF HER TESTIMONY ON BEHALF OF HER FORMER
13 HUSBAND, THE FATHER OF TWO OF HER CHILDREN, SHE FELT BAD.

14 AND IN THE INTERIM, SHE HAD CONTACT WITH THE DEFENSE
15 LAWYERS AND THE DEFENSE LAWYER'S REPRESENTATIVE, AND SHE WAS
16 BROUGHT BACK INTO THIS COURTROOM. AND THAT'S WHAT SHE
17 FABRICATED THIS STORY, BECAUSE SHE WANTED TO GIVE HER FORMER
18 HUSBAND A POSSIBLE ALIBI.

19 DON'T BELIEVE THAT, LADIES AND GENTLEMEN, BECAUSE SHE
20 WAS HERE TO TESTIFY THE FIRST TIME ON BEHALF OF THE GOVERNMENT.
21 BEFORE SHE TESTIFIED, SHE HAD SPOKEN TO A REPRESENTATIVE OF
22 MR. NICOLAYSEN.

23 AND IF SHE HAD MENTIONED AS EARLY AS JANUARY OF 1990,
24 THAT ONE OF THOSE TRIPS WITH HER HUSBAND HAD BEEN THE LATTER
25 END OF JANUARY OF 1985, REST ASSURED THAT THAT WOULD HAVE BEEN

28-135

1 BROUGHT OUT ON CROSS-EXAMINATION OF MISS FUENTES WHEN SHE WAS
2 PUT ON FOR YOU BY THE GOVERNMENT. BUT THAT DIDN'T OCCUR, THAT
3 DIDN'T HAPPEN. SHE WAS LYING ABOUT THIS ALIBI NOW FOR HER
4 HUSBAND.

5 THE DEFENSE ALSO PROVIDED FOR YOU THE TESTIMONY OF
6 THE SISTER-IN-LAW AND NIECE OF DEFENDANT JAVIER VASQUEZ; THAT
7 IS, ESPERANZA WHO'S THE LIFE OF ELISEO, THE DEFENDANT'S
8 BROTHER, AND ESPERANZA'S DAUGHTER, THERESA.

9 BOTH OF THOSE WOMEN CAME INTO THIS COURTROOM UNDER
10 OATH AND THEY TOLD YOU SOME PRETTY AMAZING THINGS. FIRST THEY
11 SAID -- BOY, THEY WERE IN UNISON ON THIS -- ELISEO, WHO IS NOW
12 DEAD AGAIN -- HE'S DEAD SO HE CAN'T DEFEND HIMSELF -- ELISEO
13 WAS ALWAYS WITH BARBA. BARBA WAS NEVER WITH JAVIER VASQUEZ.
14 NO, THAT NEVER HAPPENED.

15 THE WIFE, ESPARRANZA, THEN TELLS THAT YOU I HAVE BEEN
16 TO LA QUINTA, AND SHE GIVES AN ADDRESS OF 114 AVENUE TONALA,
17 WHICH IS NOT THE REAL LA QUINTA. THAT IS A DIFFERENT ADDRESS.

18 MR. NICOLAYSEN: OBJECTION, YOUR HONOR. THAT'S NOT
19 WHAT THE TESTIMONY WAS.

20 THE COURT: I'M NOT GOING TO RESOLVE THE DISPUTES
21 OVER THE TESTIMONY. THE JURY IS REQUIRED TO DO THAT. I HAVE
22 ALREADY SPOKEN ON THAT. THERE WILL BE NO FURTHER COMMENT.

23 MR. MEDRANO: SHE GIVES A DESCRIPTION AND ADDRESS FOR
24 LA QUINTA THAT IS ENTIRELY DIFFERENT FROM WHAT CERVANTES TOLD
25 YOU. THAT'S THE WRONG HOUSE.

1 AGENT DELBERT SALAZAR TOOK THE STAND AND TESTIFIED
2 FOR YOU THAT HE IS THE ONE WHO TOOK THE PICTURES OF THE HOUSE
3 THAT HE WAS TOLD WAS LA QUINTA. CERVANTES IDENTIFIED THAT
4 PHOTOGRAPH AS LA QUINTA. THAT IS NOT LA QUINTA THAT THE WIFE
5 AND THE NIECE WERE TALKING ABOUT. IT'S A DIFFERENT HOUSE,
6 CONVENIENTLY JUST FIVE HOUSES DOWN THE STREET FROM THE REAL LA
7 QUINTA.

8 WHEN PEOPLE LIKE THAT TESTIFY, YOU HAVE TO SEE WHAT
9 THEY SAY THAT HAS GRAINS OF TRUTH. AND MUCH OF WHAT THEY SAID
10 ACTUALLY HAD GRAINS OF TRUTH; AND AGAIN IRONICALLY, SERVES TO
11 CORROBORATE THE GOVERNMENT'S WITNESSES.

12 FOR EXAMPLE, SHE TOLD YOU THAT BARBA -- BOTH WOMEN
13 TOLD YOU THAT BARBA WAS ALWAYS WITH ELISEO. CERVANTES TOLD YOU
14 THAT. SHE TOLD YOU THAT BARBA FREQUENTLY WENT TO LA QUINTA AND
15 THAT BE HAD A HOUSE THAT HE LIVED AT ELSEWHERE. CERVANTES TOLD
16 YOU THAT.

17 THE DAUGHTER TOLD YOU THAT ELISEO USED TO BE A MEMBER
18 OF THE RURAL POLICE. MR. PLASCENCIA TOLD YOU THAT. AND
19 FINALLY, THEY TOLD YOU THAT FRIENDS OF BARBA AND ELISEO WERE EL
20 CORITA AND EL ITALIANO.

21 PLASCENCIA TOLD YOU THAT. CERVANTES TOLD YOU THAT.

22 NOW, THEY ARE LYING, HOWEVER, WHEN IT COMES TO OTHER
23 SIGNIFICANT ITEMS. AND HERE IS WHERE THEY'RE LYING. THEY TOLD
24 YOU THAT AT THE LA QUINTA THAT THEY KNEW, THERE WAS NO
25 TELEPHONE, THERE WAS NO HECTOR CERVANTES. JAVIER VASQUEZ WAS

1 NEVER AT THAT HOUSE, AND FINALLY, NEVER EVER THAT THEY WERE
2 AWARE OF WAS THERE ANY WEDDING OR BAPTISM AT LA QUINTA.

3 LADIES AND GENTLEMEN, I ASK YOU TO DISCOUNT AND JUST
4 PUT ASIDE THEIR TESTIMONY FOR SEVERAL REASONS.

5 FIRST OF ALL, THEY'RE BIASED. THEY'RE RELATIVES OF
6 THE DEFENDANT. SECOND OF ALL, THEIR STORIES MAKE NO SENSE.
7 THE MOTHER OF ESPARRANZA TOLD YOU BETWEEN '83 AND EARLY '85, I
8 WENT TO LA QUINTA SEVERAL TIMES WITH JAVIER BARBA'S WIFE.
9 I WENT ABOUT THREE TIMES A WEEK -- PARDON ME -- THREE TIMES A
10 MONTH. EACH TIME I WENT, I WAS THERE BETWEEN 8 AND 15 DAYS.

11 IF YOU TOTAL THAT UP, THAT'S LIKE 45 DAYS OUT OF A 30
12 DAY MONTH. SHE'D BE VIRTUALLY LIVING THERE. THAT'S ABSURD.
13 SHE IS OVER REACHING. SHE IS STRETCHING IT TO TRY TO HELP THE
14 DEFENDANT, LADIES AND GENTLEMEN. DON'T BUY IT.

15 BOTH WOMEN COULDN'T GET THEIR STORIES STRAIGHT. WHEN
16 I ASKED BOTH OF THEM ON CROSS FOR A DESCRIPTION OF THE HOUSE,
17 WHERE THE BEDROOMS ARE, ONE WOMAN PUT THE BEDROOMS AT THE BACK
18 OF THE HOUSE AND THE OTHER PUT THEM ON THE SIDE OF THE HOUSE.

19 ON THIS ISSUE OF TELEPHONES AND NO PARTIES, WELL
20 LADIES AND GENTLEMEN, YOU HAVE SEEN PHOTOGRAPHS, AND YOU WILL
21 AGAIN IN THE JURY ROOM, OF THE RESIDENTIAL AREA OF LA QUINTA.
22 IT IS A MODERN AREA. THERE ARE TELEPHONES THERE.

23 COME ON. YOU'RE NOT GOING TO BELIEVE THAT THERE IS
24 TELEPHONES IN THAT MODERN AREA WITH THIS PALACIAL TYPE OF
25 HOUSE. THAT MAKES NO SENSE. ALSO, BOTH WOMEN DESCRIBE THAT AT

28-138

1 THEIR LA QUINTA, IN THE BACK YARD THERE WERE 50 BULLS, 10 COWS,
2 10 HORSES, DUCKS, CHICKENS. WHO KNOWS WHAT ELSE?

3 WELL, THIS WAS A RESIDENTIAL AREA. BOTH ADMITTED
4 THAT. AND ONE OF THE WOMEN ADMITTED THAT. AND ONE OF THE
5 WOMEN ADMITTED THAT THERE WERE NO OTHER ANIMALS AT THE OTHER
6 HOUSES IN THE AREA. LADIES AND GENTLEMEN, THEY ARE TALKING
7 ABOUT SOME OTHER HOUSE. AND USING THIS OTHER HOUSE AS A FOCUS,
8 THEY COME IN HERE AND TELL YOU STORES THAT ARE NOT TRUE.

9 FINALLY, THE LAST NAIL IN THE COFFIN GOES TO THE
10 CREDIBILITY OF THESE WOMEN. I ASKED ON CROSS-EXAMINATION OF
11 ESPARRANZA, THE SISTER-IN-LAW OF THE DEFENDANT -- IN FACT, I
12 ASKED BOTH WOMEN IF THEY KNEW WHAT TYPE OF BUSINESS ELISEO WAS
13 IN, AND BOTH OF THEM TOLD YOU HE WAS INVOLVED IN FARMING.

14 HE'S NOT INVOLVED IN FARMING; HE IS A NARCOTICS
15 TRAFFICKER AND HE'S A BODYGUARD, AND THERE IS OVERWHELMING
16 EVIDENCE THAT ESTABLISHES THAT.

17 SECONDLY, MOST IMPORTANTLY, I SHOWED ESPARRANZA THIS
18 EXHIBIT 173 THAT HAS THE PHOTOS, AND NUMBER 8 IS JAVIER
19 VASQUEZ. AND I ASKED HER IF SHE RECOGNIZED ANYONE HERE, AND
20 SHE DIDN'T IDENTIFY JAVIER VASQUEZ. SHE IS NOT TELLING YOU THE
21 TRUTH AND NEITHER WAS HER DAUGHTER THERESA.

22 IF YOU LOOK AT JAVIER VASQUEZ, LADIES AND GENTLEMEN,
23 THIS MAN WAS INVOLVED. HE WAS A BODYGUARD, HE WAS A BODYGUARD
24 AT SEVERAL OF THE PLANNING MEETINGS. YOU HAVE HEARD VOLUMINOUS
25 TESTIMONY ON THAT.

28-139

1 PLASCENCIA TOLD YOU HE WAS A BODYGUARD AT THE
2 DECEMBER 1984 LA BAJADITA MEETING. HE DEPARTED WITH BARBA THE
3 DAY OF THE LA LANGOSTA INCIDENT. THAT'S WHAT CERVANTES TOLD
4 YOU. OF COURSE, LATER ON IN THE EVENING BARBA RETURNS BLOODY,
5 AND BARBA SAYS THEY HAD JUST KILLED TWO AMERICANS BECAUSE THEY
6 WERE SPYING ON OUR MEETING.

7 PLASCENCIA TOLD YOU THAT HE PARTICIPATED WITH THE
8 ACTUAL MURDERS. YOU HAVE THIS POST-MURDER STATEMENT BY JAVIER
9 VASQUEZ TO CERVANTES. IN ESSENCE, TELL BARBA THAT THE
10 AMERICANS ARE DEAD AND THAT THEY WERE KILLED WITH ICE PICKS.

11 AT THE POST-ABDUCTION MEETING, IMMEDIATELY AFTER
12 CAMARENA IS ABDUCTED, REMEMBER I TOLD YOU ALL HELL WAS BREAKING
13 LOOSE. ZUNO WAS TRYING TO MOVE HIS DOPE, HIS HIDDEN MARIJUANA.
14 JAVIER VASQUEZ WAS THERE, HE GOT THE 25 MEN THAT MOVED THE
15 NARCOTICS.

16 AND THEREAFTER, HE HAD A CONVERSATION WITH CERVANTES
17 THAT SPOKE ABOUT HOW THE BRAVO FAMILY HAD BEEN MURDERED AND HOW
18 THE BODIES, I.E., CAMARENA AND ZAVALA, HAD TO BE TAKEN OF LA
19 PRIMAVERA PARK BECAUSE IT WOULD CAUSE TROUBLE FOR ZUNO.

20 ON JULY 14 WHEN HE WAS INTERVIEWED BY SPECIAL AGENT
21 REYNOSO, LADIES AND GENTLEMEN, KEEP IN MIND WHAT WE DISCUSSED
22 WITH YOU ABOUT THE INTERNAL INCONSISTENCIES OF HIS STATEMENTS.

23 ON THE ONE HAND HE ADMITS AND CORROBORATES VIRTUALLY
24 EVERYTHING THAT CERVANTES AND PLASCENCIA TOLD YOU ABOUT THE
25 ASSOCIATIONS HERE, AND WHO WERE THE BODYGUARDS, AND THE TIERRA

28-140

1 LIBRE BROTHERS WERE ALWAYS THERE, AND THAT THEY KNEW BARBA. HE
2 OWNS UP TO ALL THAT.

3 BUT WHEN IT COMES TO THE HEART OF THE MATTER, THE KEY
4 ISSUE, OF COURSE HE'S GOING TO DENY. WHAT IS HE GOING TO SAY?
5 OH, YES, OF COURSE I WAS INVOLVED WITH THE RADELAT-WALKER
6 MURDERS. HE'S NOT GOING TO DO THAT. HE'S GOING SAY I DO HAVE
7 THIS INFORMATION, AND I KNOW THIS INFORMATION BECAUSE MY
8 BROTHER ELISEO TOLD ME.

9 HE HAD THIS INFORMATION, WHICH WAS INCREDIBLY
10 DETAILED, AND YOU HEARD THE TESTIMONY OF REYNOSO, HE KNEW IT
11 BECAUSE HE WAS THERE.

12 AND FINALLY, A RELUCTANT, BUT TRUTHFUL THE FIRST
13 TIME, ESTELLA FUENTES TOLD YOU ABOUT THE LETTER. A MAN SHE HAS
14 HAD VIRTUALLY NO CONTACT WITH FOR FOUR OR FIVE YEARS, OUT OF
15 THE BLUE SENDS HER A LETTER AND TRIES TO REMIND HER ABOUT THIS
16 ALIBI, THAT WE WERE TOGETHER FOR CHRISTMAS OR THE HOLIDAYS AND
17 TO GIVE HIM AN ALIBI.

18 ESTELLA FUENTES TOLD YOU NO. WE WERE TOGETHER, YES,
19 DECEMBER 23 TO JANUARY 2. SHE REMEMBERS THOSE DATES BECAUSE
20 THE KIDS HAD TO BE BACK AT SCHOOL. DON'T BELIEVE IT.

21 I ANTICIPATE THAT SHORTLY THE COURT WILL INSTRUCT YOU
22 A FEW THINGS ABOUT CONSPIRACY, LADIES AND GENTLEMEN. KEEP IN
23 MIND THAT EACH MEMBER OF THE CONSPIRACY IS RESPONSIBLE FOR THE
24 ACTIONS OR ACTS PERFORMED BY OTHER MEMBERS OF THE CONSPIRACY,
25 ASSUMING THE GOVERNMENT HAS ESTABLISHED THAT ALL WERE MEMBERS

28-141

1 OF THE CONSPIRACY.

2 WHAT THAT TRANSLATES INTO, IN SIMPLE ENGLISH, IS THAT
3 IF WE ESTABLISH FOR YOUR SATISFACTION THAT THESE DEFENDANTS
4 WERE IN THIS CONSPIRACY, THEN WHAT PARTY A DOES, PARTY B IS
5 ALSO RESPONSIBLE FOR, EVEN THOUGH B MIGHT NOT HAVE BEEN THERE.
6 AND THAT'S THE WAY IT HAS TO BE, WHEN YOU THINK ABOUT IT,
7 BECAUSE OTHERWISE, PEOPLE LIKE MATTA HERE COULD BE INVOLVED IN
8 THE MEETINGS FOR THE PLANNING OF THE MURDER OF CAMARENA AND
9 NEVER HAVE TO GO TO LOPE DE VEGA, ALTHOUGH, CLEARLY THE
10 EVIDENCE SUGGESTS HE WAS.

11 BUT ASSUME THAT HE WASN'T. IF YOU DID NOT HAVE THIS
12 THEORY OF VICARIOUS LIABILITY UNDER THE LAW, THEN PEOPLE LIKE
13 MATTA WOULD WALK OUT OF HERE BECAUSE THEY WOULD NEVER BE HELD
14 ACCOUNTABLE. BUT THEY ARE UNDER THIS JURY INSTRUCTION AND
15 UNDER THIS THEORY OF VICARIOUS LIABILITY.

16 IF YOU FIND THAT THE THREE MEN HERE FOR CAMARENA WERE
17 PART OF THE CONSPIRACY, THEN WHAT THE LEFT HAND DOES MAKES THE
18 RIGHT HAND ACCOUNTABLE. THAT'S VERY IMPORTANT.

19 MR. MATTA BALLESTEROS: THE EVIDENCE IS MANIFEST AS
20 TO WHAT HIS ROLE WAS WITH REGARD TO THIS ENTERPRISE. HE WAS A
21 SOURCE OF SUPPLY FOR COCAINE AND HE WAS THE NUMBER ONE PARTNER
22 OF FELIX GALLARDO.

23 NOW THERE HAS BEEN SIGNIFICANT EVIDENCE ESTABLISHING
24 HIS INVOLVEMENT, LADIES AND GENTLEMEN, I HAVE ALREADY ALLUDED
25 TO MUCH OF IT. REMEMBER THE SIGNIFICANT NARCOTICS LOSSES, THE

28-142

1 AUGUST 14TH YOUNG, ARIZONA COCAINE SEIZURE? REMEMBER THE \$4.1
2 MILLION SEIZED AT THAT ANAHEIM HOTEL?

3 MATTA, AS I HAVE ALREADY EXPLAINED TO YOU, WAS
4 PRESENT FOR TWO OF THESE CRUCIAL MEETINGS, THE WEDDING MEETINGS
5 IN OCTOBER OF 1984. HE WAS PRESENT, ALONG WITH BARBA AND OTHER
6 SIGNIFICANT PLAYERS. REMEMBER MATTA WAS SHOWN THE POLICE
7 REPORTS BY ALDANA?

8 HE WAS ALSO PRESENT FOR THE SECOND MEETING AFTER THE
9 WEDDING AND WHILE THE PARTY WAS IN PROGRESS. AND AGAIN, MATTA
10 IS THERE ALONG WITH ZUNO. AND AGAIN, THERE IS DISCUSSION THAT
11 SOMETHING HAS TO BE DONE ABOUT THIS FEDERAL AGENT.

12 NOW, WHAT CORROBORATES ALL THIS AND CORROBORATES
13 CERVANTES IS THE FACT THAT THIS KIDNAPPING OCCURRED -- AND YOU
14 KNOW THAT BECAUSE THERE IS EVIDENCE OF THAT, AND THIS
15 INTERROGATION OCCURRED BECAUSE YOU HEARD THE TORTURE TAPES.
16 THAT EVIDENCE CORROBORATES CERVANTES.

17 AND CERTAINLY THE FORENSIC EVIDENCE HERE SERVES TO
18 FURTHER CORROBORATE THE INVOLVEMENT OF MATTA IN THE CONSPIRACY
19 TO KIDNAP SPECIAL AGENT ENRIQUE CAMARENA.

20 I'D LIKE TO TALK JUST MOMENTARILY ABOUT THE HAIR
21 FOUND AT THE LOPE DE VEGA HOUSE, LADIES AND GENTLEMEN,
22 ESPECIALLY WITH REGARD TO MATTA BALLESTEROS.

23 YOU KNOW NOW THROUGH THE TESTIMONY OF MR. MALONE THAT
24 HAIR FOUND IN BEDROOM NUMBER 4 MATCHED HAIR PULLED FROM THE
25 HEAD OF MATTA BALLESTEROS IN 20 CHARACTERISTICS. THAT'S A VERY

28-143

1 STRONG IDENTIFICATION. AND RECALL THAT'S IN THE SAME ROOM,
2 BEDROOM NUMBER FOUR, WHERE THE HAIR OF CAMARENA WAS FOUND AND
3 CAMARENA'S HAIR HAD BEEN FORCIBLY REMOVED.

4 NUMBER 2, A SECOND HAIR OF MATTA IS FOUND IN THE
5 GUEST HOUSE. MALONE SAID HE MATCHED UP 20 CHARACTERISTICS.
6 AND HE WENT FURTHER WITH REGARD TO THE HAIR FOUND IN THE GUEST
7 HOUSE THAT MATCHED HAIR COMING FROM THE HEAD OF MATTA. HE TOLD
8 YOU THE FOLLOWING.

9 HE SAID THAT IN HIS VIEW, IN HIS EXPERIENCE AFTER
10 DOING THIS THOUSANDS OF TIMES, HE FOUND THAT THE GUEST HOUSE
11 HAIR OF MATTA WAS ABSOLUTELY INDISTINGUISHABLE. THERE WERE NO
12 DISSIMILARITIES. IT WAS CONSISTENT WITH COMING FROM THE HEAD
13 OF MATTA BALLESTEROS. AND THIS IS, PERHAPS, THE MOST
14 SIGNIFICANT.

15 THE HAIR IN THE GUEST HOUSE THAT HAS BEEN MATCHED
16 WITH MATTA HAD UNIQUE RACIAL MIX OF NEGROID AND MONGOLOID,
17 SOMETHING THAT SPECIAL AGENT MALONE HAS SEEN ONLY TWICE IN HIS
18 15 YEARS OF EXAMINING HISPANIC HAIRS. AND HE'S THE MAN ON
19 HISPANIC HAIRS. HE IS, PERHAPS, MORE THAN ANY OTHER AGENT IN
20 THE HAIR AND FIBER UNIT FOR THE F.B.I. AS HE TOLD YOU, HE HAS
21 EXAMINED THE MOST NUMBER OF HISPANIC HAIRS OF ALL OF THE AGENTS
22 IN THAT PARTICULAR UNIT.

23 AND HE FOUND THAT AFTER THAT VAST EXPERIENCE, THERE
24 WAS THIS UNUSUAL, VERY UNIQUE RACIAL MIX. I SUBMIT TO YOU
25 STRONGLY THE HAIR FOUND IN THE GUEST HOUSE -- THE HAIR FOUND IN

28-144

1 THE GUEST HOUSE, LADIES AND GENTLEMEN -- PARDON ME, THE HAIR
2 FROM THE BEDROOM AND THE GUEST HOUSE MATCHES THE HAIR FROM
3 MATTA.

4 YOU'LL RECALL THE FOLLOWING EVIDENCE AS WELL WITH
5 REGARD TO MATTA. REMEMBER FEBRUARY 11, '85, THE SEARCH OF
6 GALLARDO'S HOUSE, AND THEY FOUND THOSE TWO PHOTOGRAPHS. ONE IS
7 EXHIBIT 63. THAT IS A PICTURE OF CAMARENA, LADIES AND
8 GENTLEMEN, RIGHT NEXT TO ANOTHER PHOTOGRAPH OF THE ROLLS ROYCE
9 THAT SHOWS MATTA WITH FELIX GALLARDO.

10 I WANT TO REMIND YOU ABOUT TESTIMONY OF THIS
11 PHOTOGRAPH, EXHIBIT 63. THIS PHOTOGRAPH WAS TAKEN AT THE
12 M.F.J.P. OFFICE, ON THERE HAS BEEN TESTIMONY THAT THE MAN ON
13 THE RIGHT IN THE BACK IS BERNABE.

14 OF COURSE YOU'VE HEARD THE TESTIMONY ABOUT MATTA'S
15 FLIGHT FROM THE PLAZA DEL SOL HOTEL ON FEBRUARY 12. I'VE
16 ALREADY TOLD YOU ABOUT THE STATEMENTS TO AGENT VIGIL WHERE HE
17 OWNS UP TO KNOWING GALLARDO AND CARO. AND HE SAYS THAT
18 CAMARENA WAS KILLED BECAUSE THIS AGENT WAS RESPONSIBLE FOR THE
19 CHIHUAHUA SEIZURE. HE SAYS FIRST WELL, HE KNOWS ONLY ABOUT
20 CAMARENA BECAUSE OF WHAT HE HAS READ IN THE PAPERS, AND THEN
21 BACK PEDALS AND SAYS HE HAS PERSONNEL KNOWLEDGE, BUT WHAT HE
22 SAYS CAN GET HIM KILLED.

23 LADIES AND GENTLEMEN, MATTA WAS INVOLVED IN THIS
24 CONSPIRACY. HE WAS THE SOURCE OF SUPPLY, HE WAS THE PARTNER OF
25 FELIX. INCREDIBLE AMOUNT OF EVIDENCE ESTABLISHES THAT. HE

28-145

1 WAS -- HE LOST MONEY ON DRUGS BECAUSE OF THE D.E.A.'S ROLE IN
2 THIS CASE.

3 THE 1400 POUNDS OF 99 PERCENT PURE COCAINE IN YOUNG,
4 ARIZONA, THE \$4.1 MILLION SEIZED AT THAT ANAHEIM HOTEL. HE WAS
5 INVOLVED IN TWO OF THE PLANNING MEETINGS PER CERVANTES; THE TWO
6 HELD ON THE DAY OF THE WEDDING IN OCTOBER OF '84 FOR JORGE
7 BARBA.

8 YOU KNOW THAT EVERYTHING CERVANTES AND EVERYTHING THE
9 GOVERNMENT WITNESSES TELLS YOU IS TRUE BECAUSE THESE MEETINGS
10 OCCURRED, THEY PLANNED A KIDNAPPING, AND LO AND BEHOLD, IT
11 HAPPENED. CAMARENA WAS TAKEN AND INTERROGATED. THE HAIR FOR
12 THESE TWO ROOMS, PARTICULARLY, THE GUEST HOUSE, THE TORTURE
13 CHAMBER, MATCHES HAIR COMING FROM MATTA BALLESTEROS.

14 THE FEBRUARY 11 PHOTOGRAPHS OF FELIX WITH MATTA AND
15 THE PHOTOGRAPH OF CAMARENA IN THE M.F.J.P. OFFICE. MATTA'S
16 FLEE FROM THE PLAZA DEL SOL HOTEL. AND FINALLY, HIS
17 POST-ABDUCTION ADMISSIONS TO YOU WHERE HE'S BASICALLY SAYING HE
18 KNOWS MANY OF THE PLAYERS IN THIS ENTERPRISE, AND HE HAS
19 PERSONAL INFORMATION.

20 OF COURSE HE DOES, BECAUSE HE WAS THERE, HE WAS
21 INVOLVED WITH THE MEETINGS, HE WAS ONE OF THE PEOPLE WHO SET
22 THIS HEINOUS CRIME IN ACTION, AND HE SHOULD BE HELD ACCOUNTABLE
23 FOR THAT, LADIES AND GENTLEMEN.

24 ZUNO: JUST BRIEFLY, HE'S A POWERFUL MAN. HE'S THE
25 BROTHER-IN-LAW OF A FORMER PRESIDENT OF MEXICO, LUIS

28-146

1 ECHEVERRIA. WELL, HE HAS POLITICAL CONTACTS. THAT IS HIS
2 FUNCTION AND HE ADMITTED THAT.

3 CERVANTES TOLD YOU THAT ON ONE OCCASION WHEN ZUNO WAS
4 AT THE HOUSE, ZUNO SAID THAT IF YOU NEED PROTECTION FOR
5 MARIJUANA, I CAN SEND THE MILITARY. WHAT KIND OF POWER, WHAT
6 KIND OF AUTHORITY WOULD ZUNO HAVE TO BE ABLE TO SET THAT KIND
7 OF STUFF IN MOTION?

8 HE WAS INCREDIBLY WELL-CONNECTED POLITICALLY, LADIES
9 AND GENTLEMEN. YOU HAVE HEARD TESTIMONY THAT ZUNO WAS
10 FREQUENTLY AT LA QUINTA, TWICE TO DELIVER CREDENTIALS AND TWICE
11 TO COLLECT MONEY.

12 HE WAS PRESENT FOR THREE OF THE FOUR CERVANTES
13 MEETINGS TO DISCUSS KIDNAPPING THE FEDERAL AGENT. ALL EXCEPT
14 THE FIRST MEETING HELD THE DAY OF THE WEDDING. HE WAS PRESENT
15 FOR THE SEPTEMBER 1984 BAPTISM, THE SECOND OCTOBER 1984 WEDDING
16 MEETING. HE WAS PRESENT FOR THE FINAL PREABDUCTION MEETING IN
17 EARLY FEBRUARY.

18 AND FINALLY, WHEN ALL HELL BREAKS LOOSE, HE IS AT
19 BARBA'S HOUSE WHEN EVERYONE IS FLEEING, AND HE RECRUITS THE
20 ASSISTANCE OF BARBA TO MOVE FIVE TONS OF MASCOTA MARIJUANA.

21 LADIES AND GENTLEMEN, LOOK AT THE M.O. OF THE
22 DEFENDANTS IN THIS CASE. THEY ALL LEAVE TOWN WHEN TROUBLE
23 STARTS. CARO GOT OUT OF THERE. HE FLEW AWAY ON HIS JET ON
24 FEBRUARY 9. FONSECA GOT OUT OF THERE. BERNABE RAMIREZ,
25 THROUGH HIS OWN TESTIMONY, TOLD YOU THAT. REMEMBER FONSECA

28-147

1 FIRST GOES TO A FARM FOR A MONTH AND THEN TO ANOTHER FONSECA
2 HOUSE FOR A WEEK, AND FINALLY THEY GO TO PUERTO VALLARTA BEFORE
3 THEY'RE ARRESTED OUT THERE.

4 ZUNO IS ALSO FLEEING. MATTIA IS ALSO FLEEING.
5 EVERYBODY IS GETTING OUT OF THERE AND WHY DO YOU THINK THEY'RE
6 GETTING OUT OF THERE? BECAUSE THEY WERE ALL INVOLVED WITH THE
7 CONSPIRACY TO KIDNAP THIS FEDERAL AGENT.

8 NOW, YOU HEARD THE TESTIMONY OF A RATHER UNIQUE
9 WITNESS. HE'S HARD TO MISS BECAUSE HE'S ABOUT 6-8 OR 6-9. HIS
10 NAME IS LAWRENCE HARRISON, AND HE TESTIFIED FOR YOU AT LENGTH
11 AND HE WAS CROSS-EXAMINED STRENUOUSLY BY DEFENSE COUNSEL FOR
12 RUBEN ZUNO.

13 HE'S A PRETTY FASCINATING INDIVIDUAL. THIS IS A MAN
14 WHO WAS INITIALLY FROM THE UNITED STATES, PERFECTLY FLUENT IN
15 ENGLISH AND SPANISH IN THE 60'S. AUDITED CLASSES AT BERKELEY,
16 BOTH AT THE COLLEGE AND LAW SCHOOL LEVEL. IN ABOUT 1971, HE
17 MOVES TO MEXICO TO LIVE PERMANENTLY. STARTS FIRST AS A LAW
18 CLERK AND BECOMES A FULL-TIME LAWYER FOR A SOCIAL SERVICES LAW
19 FIRM, AND THEN DEVELOPS HIS OWN CLIENTS.

20 HE HAS A THRIVING LAW PRACTICE. WHAT IS UNIQUE ABOUT
21 THIS MAN IS THAT HE HAS AN INTERESTING HOBBY. HE IS, AS YOU
22 HAVE PROBABLY HEARD, AN ELECTRONICS EXPERT, IF NOT GENIUS.
23 IT'S HIS HOBBY, BUT HE CAN DO VIRTUALLY ANYTHING IN THE AREA OF
24 ELECTRONICS.

25 WHAT HE DOES IN ABOUT 1980 IS HE PUTS TOGETHER A

28-148

1 RESUME AND HE STARTS DISSEMINATING IT TO LAW ENFORCEMENT
2 AGENCIES IN GUADALAJARA TO SEE IF HIS SERVICES WERE NEEDED.
3 WELL, THEY WERE NEEDED, BUT NOT FOR THE RIGHT REASONS.

4 LORENZO HARRISON OR LAWRENCE HARRISON STARTS WORKING
5 FIRST FOR SERGIO ESPINO VERDIN. HE EVEN RECEIVES D.F.S.
6 CREDENTIALS, YOU MAY RECALL, ALTHOUGH HE WAS NOT A CERTIFIED
7 D.F.S. AGENT. IN JULY OF 1983, SERGIO ESPINO VERDIN, WHO IS
8 THE LEAD INTERROGATOR OF CAMARENA ON THE TORTURE TAPES, ASSIGNS
9 HARRISON TO LIVE FULL TIME AT ONE OF THE HOUSES OF FONSECA, THE
10 CUARZO HOUSE.

11 AND WHILE THERE, HARRISON IS ORDERED TO TRY TO
12 MAINTAIN AND DOING SOMETHING WITH THIS ANTIQUATED
13 COMMUNICATIONS SYSTEM THAT THE NARCOTICS TRAFFICKERS HAVE. HE
14 TRIED, BUT THE THING WAS TERRIBLE. FINALLY, HE IS GIVEN MONEY
15 TO GO OUT AND PURCHASE AND INSTALL A BRAND NEW, COMPLICATED
16 ELECTRONIC COMMUNICATIONS SYSTEM, AND THAT'S WHAT HE DOES.

17 YOU WILL RECALL HE DID THAT. AND THEREAFTER, HIS
18 FULL-TIME JOB WAS TO WORK FOR FONSECA AND OTHERS, AND TO
19 MAINTAIN THIS COMPLEX COMMUNICATIONS SYSTEM.

20 MAY I HAVE JUST ONE MOMENT, YOUR HONOR.

21 AND HARRISON ASSIGNED CALL NAMES OR CALL SIGNALS TO
22 VARIOUS OTHER TRAFFICKERS. CARO WAS "R-1". WELL, THAT'S
23 CORROBORATED. REMEMBER THE .45 CALIBER GUN WITH THE JEWELS
24 THAT SAY "R-1" ON IT THAT WAS SEIZED OFF OF CARO IN COSTA RICA?

25 GALLARDO, AS WE NOW KNOW NOW FROM OTHER TESTIMONY,

28-149

1 WAS "M-1" AND MATTA WAS "PONY", AND IN THIS FASHION, THE
2 NARCOTICS TRAFFICKERS ARE FINALLY ABLE TO COMMUNICATE BECAUSE A
3 FANCY REPEATER SYSTEM WAS INSTALLED BY MR. HARRISON.

4 NOW, HARRISON TOLD YOU ABOUT FONSECA AND MEETINGS AT
5 FONSECA'S HOUSE. FIRST HE TOLD YOU THAT FONSECA HAD I.P.S.
6 CREDENTIALS. SECOND, HARRISON TOLD YOU THAT WHEN HE WAS AT THE
7 CUARZO HOUSE, FONSECA HAD MANY MEETINGS THERE OF NARCOTICS
8 TRAFFICKERS AND CORRUPT LAW ENFORCEMENT OFFICIALS.

9 CORRUPT OFFICIALS FROM THE M.F.J.P., THE D.F.S., THE
10 I.P.S., THE STATE JUDICIAL POLICE AND THE MILITARY. HARRISON
11 ALSO TOLD YOU, BECAUSE HE HAS A POWERFUL TALENT FOR
12 OBSERVATION, AND YOU HEARD HIS TESTIMONY, THAT HE WAS ABLE TO
13 DISCERN, FOR LACK OF A BETTER TERM, CLASS OR POWER DISTINCTIONS
14 AMONG THE NARCOTICS TRAFFICKERS THAT VISITED FONSECA AT THE
15 CUARZO HOUSE. SO THERE WAS A DISTINCT LINE BETWEEN THE BOSSES
16 AND THE BODYGUARDS, AND THE BOSSES CONSISTED OF FONSECA, CARO,
17 FELIX GALLARDO, BARBA, COCHI LOCO AND OTHERS, AND ESPINO. AND
18 THE OTHER HAND WERE VARIOUS BODYGUARDS.

19 HE ALSO TOLD YOU SIGNIFICANTLY THAT CARO AND FONSECA
20 AND BARBA AND FELIX GALLARDO REFERRED TO EACH OTHER AS
21 PARTNERS. AN ADDITIONAL THING BEFORE WE GET TO THE MEATY PART
22 OF HARRISON'S TESTIMONY. HE TOLD YOU POINT BLANK I FOLLOWED
23 ORDERS. WHAT I WAS TOLD TO DO, I DID.

24 AND ON FOUR SEPARATE OCCASIONS, FONSECA ORDERS
25 HARRISON TO TAKE A MARKED VEHICLE. BY MARKED, I MEAN IT HAS

28-150

1 THE SIREN AND LIGHTS AND MARKINGS ON THE SIDE, AND OTHER
2 BODYGUARDS WITH THEM, AND TO TAKE THE CREDENTIALS AND TO GO OUT
3 AWAY FROM GUADALAJARA, AND THERE YOU WILL MEET CARAVANS,
4 TRUCKS, AND YOU ARE TO ESCORT THOSE TRUCKS BACK BY FLASHING
5 YOUR LIGHTS. AND THERE IS A MILITARY ROADBLOCK, YOU FLASH YOUR
6 CREDENTIALS.

7 WELL, HE DID THAT AT LEAST FOUR TIMES AND THOSE WERE
8 PER ORDERS OF FONSECA. BUT ONE OF THOSE DELIVERIES, ONE OF
9 THOSE CARAVANS THAT HE DID WAS VERY SIGNIFICANT BECAUSE ONE OF
10 THEM, HARRISON HAD TO GO ALONG WITH OTHER BODYGUARDS IN THESE
11 MARKED VEHICLES AND TO GO TO MASCOTA THE LATER PART OF 1983.

12 REMEMBER HE TOLD YOU THAT WE GO OUT THERE IN TWO
13 CARS, THEY'RE MARKED VEHICLES. AFTER WE WAIT TWO HOURS, ABOUT
14 TWO -- TWO OR THREE FOUR-WHEEL DRIVES SHOW UP AND THIS HUGE
15 COVERED TRUCK. AND THEY ESCORT THAT TRUCK BACK TO GUADALAJARA.
16 KEEP THIS IN MIND. YOU KNOW THAT ZUNO IS FROM MASCOTA. HE HAS
17 ADMITTED THAT TO AN I.N.S. OFFICIAL WHO TESTIFIED FOR YOU.
18 HE HAS ADMITTED THAT TO AGENT KUYKENDALL.

19 LO AND BEHOLD, HARRISON IS ESCORTING THE CARAVAN AND
20 WHO KNOWS WHAT IS IN THAT TRUCK, BUT I SUBMIT TO YOU THAT WHAT
21 HAD TO BE THERE IS CONTRABAND, AND IT'S BEING ESCORTED BACK TO
22 GUADALAJARA PER ORDERS OF FONSECA.

23 HARRISON TOLD YOU THAT ON TWO SEPARATE OCCASIONS, HE
24 HAD AN OPPORTUNITY TO GO BY THE 881 LOPE DE VEGA HOUSE.

25 AND ONE TIME, IN ABOUT FEBRUARY OF 1984, HE WAS

28-151

1 DRIVING AROUND WITH A COLLEAGUE IN HIS CAR. AND REMEMBER
2 HARRISON TOLD YOU HIS MAIN JOB WAS TO KEEP UP AND MAINTAIN THE
3 ELECTRONICS SYSTEM. AND TO DO THAT, HE HAD TO DRIVE AROUND TO
4 SEE HOW THE RECEPTION WAS AFFECTED BY THE GEOGRAPHY, MOUNTAINS,
5 TREES, ET CETERA.

6 ONE TIME IN FEBRUARY OF 1984, MR. HARRISON AND HIS
7 COLLEAGUE DRIVE BY THE LOPE DE VEGA HOUSE, AND WHAT DOES
8 HARRISON HEAR ON THE RADIO BUT THE VOICE OF CARO QUINTERO
9 EMANATING FROM THE LOPE DE VEGA RESIDENCE -- IN FEBRUARY OF
10 1984, A TIME BEFORE ZUNO SOLD THAT PROPERTY IN JANUARY OF 1985.

11 CARO WAS AT THAT HOUSE, LADIES AND GENTLEMEN, BECAUSE
12 HE KNOWS AND IS AN ASSOCIATE OF ZUNO. AND THAT'S WHAT THAT
13 PIECE OF EVIDENCE ESTABLISHES FOR YOU.

14 ON ANOTHER OCCASION IN AUGUST OF 1984, HARRISON TOLD
15 THAT YOU BARBA INSTRUCTS HARRISON TO GO TO LOPE DE VEGA. IT'S
16 CARO'S HOUSE. THAT'S WHAT BARBA SAYS. CHECK ON THE GATE
17 SYSTEM.

18 HARRISON GOES. AGAIN, HE'S JUST FOLLOWING ORDERS.
19 HE NEVER GETS TO SEE THE GATES BECAUSE HE'S NOT ALLOWED IN. HE
20 KNOCKS ON THE DOOR. THE CARETAKER ANSWERS AND TELLS HIM "CARO
21 IS NOT HERE RIGHT NOW. COME BACK LATER." AGAIN, AUGUST OF
22 1984, BEFORE THAT PROPERTY WAS SOLD, CARO QUINTERO IS ALREADY
23 IN THE HOUSE, LADIES AND GENTLEMEN.

24 AND MOST SIGNIFICANTLY, ZUNO ON TWO SEPARATE
25 OCCASIONS, ACCORDING TO HARRISON, IS SEEN WITH CARO AND WITH

28-152

1 FONSECA.

2 HARRISON TOLD YOU THAT HE HAS KNOWN THE ZUNO FAMILY
3 SINCE THE 1970'S BECAUSE HE HAD AN OPPORTUNITY TO MEET ZUNO'S
4 FATHER, GUADALUPE. AND THAT HE HAD SEEN ZUNO AS LATE AS 1989
5 AT WHAT IS CALLED A QUIEN CENERA (PHONETIC), WHICH IS A COMING
6 OUT PARTY FOR A YOUNG WOMAN WHO TURNS 15 YEARS OF AGE.

7 WELL, HARRISON TOLD YOU THAT IN NOVEMBER OF 1983,
8 CARO HAD THIS HUGE BIRTHDAY PARTY AT A HOUSE OF FONSECA THAT IS
9 CALLED LAS FUENTES. HARRISON IS THERE RUNNING ERRANDS, GETTING
10 BEER, CHECKING ON THE ELECTRONICS SYSTEM GOFER-TYPE WORK.

11 CARO -- HARRISON REMEMBERS THIS PARTY BECAUSE SOME
12 UNUSUAL THINGS HAPPENED. CARO HAD JUST OBTAINED A FULLY
13 ARMORED LIMO OR HUGE CAR. I THINK IT WAS AN LTD. AND TO
14 SATISFY HIMSELF THAT THIS CAR WAS ARMOR PLATED, YOU RECALL WHAT
15 HARRISON TOLD YOU. CARO GETS AN AK-47 AND FIRES OFF A VOLLEY
16 OF ROUNDS AT THE CAR, AND NO DAMAGE WAS SUSTAINED, SO I GUESS
17 IT WAS ARMOR PLATED.

18 THE POINT OF THAT IS IT'S THE UNIQUE THINGS THAT
19 HAPPENED AT THIS PARTY WHICH HELPED HARRISON REMEMBER WHAT
20 OCCURRED. BUT SOMETHING ELSE HAPPENED, AND THIS IS WHERE ZUNO
21 COMES INTO THE PICTURE. CARO HAD OBTAINED AND PURCHASED THIS
22 DANCING HORSE.

23 CARO IS ON TOP OF THE HORSE, SHOWING IT OFF TO THE
24 CROWD AT THIS PARTY BEING HELD ON HIS BEHALF AT THIS LAS
25 FUENTES HOUSE.

28-153

1 CARO IS SMOKING A BIG CIGARETTE WHILE HE'S ON THE
2 HORSE. ZUNO ARRIVES, ZUNO ENTERS. CARO SEES ZUNO. CARO
3 DISMOUNTS. CARO WALKS OVER TO ZUNO AND THEY GIVE THE ABRAZO.
4 AND YOU HAVE BEEN TOLD WHAT THAT IS. TWO PEOPLE WHO ARE CLOSE,
5 THEY HUG EACH OTHER BECAUSE THEY'RE CLOSE.

6 LADIES AND GENTLEMEN, FURTHER EVIDENCE THAT ZUNO IS
7 ASSOCIATED WITH RAFAEL CARO QUINTERO. AND THAT WASN'T THE ONLY
8 MEETING THAT HARRISON SAW.

9 LATER ON, IN DECEMBER OF 1983, HE SAW ZUNO ARRIVE AT
10 A HOUSE OF FONSECA. HARRISON WAS THERE DOING HIS USUAL DUTIES.
11 FONSECA IS IN THIS STUDY IN HIS PRIVATE OFFICE. ZUNO IS
12 ESCORTED IN, WALKS IN THAT OFFICE, THE DOORS CLOSE, AND A
13 LITTLE BIT LATER, ZUNO EXITS.

14 YOU HAVE ZUNO ASSOCIATING NOT ONLY WITH CARO, BUT
15 ALSO WITH FONSECA. AND THAT CORROBORATES WHAT CERVANTES HAS
16 TOLD YOU WHERE ZUNO WAS PRESENT AT MEETINGS WITH CARO AND
17 FONSECA WHERE THEY WERE DISCUSSING THIS PLAN AND SCHEME TO
18 KIDNAP A FEDERAL AGENT OF THE D.E.A.

19 WE KNOW WHAT HAPPENED TO HARRISON AFTER THAT. YOU
20 MAY RECALL THAT HE TOLD YOU HE WAS TRYING TO EXTRICATE HIMSELF
21 FROM THIS LIFE AND THE TYPE OF WORK. HE WANTED TO STOP WORKING
22 WITH FONSECA. HE TOLD FONSECA THAT HE DIDN'T WANT TO WORK FOR
23 HIM ANY MORE.

24 FONSECA EITHER IGNORED HIM OR DIDN'T GO ALONG. AND
25 ULTIMATELY WHAT HAPPENS, YOU MAY RECALL, AS MR. HARRISON TOLD

28-154

1 YOU, HE WAS OUT ON DUTY, CHECKING AN ASPECT OF THE RADIO, AND
2 HE AND HIS COLLEAGUE -- HARRISON AND HIS COLLEGE ARE AMBUSHED
3 BY ABOUT 50 LAW ENFORCEMENT OFFICIALS. HARRISON TAKES NINE
4 ROUNDS AND SURVIVES. AND THEREAFTER, HE'S OUT OF THAT
5 ENTERPRISE AND OUT OF INVOLVEMENT WITH FONSECA.

6 NOW, LADIES AND GENTLEMEN, THE DEFENSE PUT ON FOR YOU
7 MR. DAVID MACIAS BARAJAS.

8 THE COURT: I THINK, COUNSEL, WE'LL TAKE OUR
9 AFTERNOON RECESS AT THIS POINT.

10 MR. MEDRANO: THANK YOU, YOUR HONOR.

11 THE COURT: THE JURY MAY BE EXCUSED.

12 (JURY EXCUSED.)

13 THE COURT: I WANT TO RULE ON THIS MOTION TO ADMIT
14 THE PRIMAVERA DOCUMENT, AS WELL AS THE DEATH CERTIFICATE.

15 THE RULING IS THAT NEITHER IS ADMISSIBLE. AFTER A
16 STUDY OF THE LAW AND CONSIDERING THE PERTINENT CIRCUMSTANCES IN
17 THIS CASE, THE COURT BELIEVES THIS NOT TO BE ADMISSIBLE.

18 FIRST, I TAKE NOTE OF THE FACT THAT IT IS A MOTION
19 FILED AFTER THE EVIDENCE HAS CLOSED IN THE CASE SO THAT THE
20 GOVERNMENT HAD NO OPPORTUNITY TO INVESTIGATE THE AUTHENTICITY
21 OR GENUINENESS OF THE INFORMATION.

22 SECOND, I AM DISTURBED BY THE RAPIDITY, AS I
23 INDICATED THIS MORNING, THE RAPIDITY WITH WHICH THESE
24 CERTIFICATIONS ARE BEING CHURNED IS A LITTLE BIT DISQUIETING TO
25 THE COURT AND CAUSES THE COURT TO HAVE SOME DOUBT ABOUT THE

1 REGULARITY OF IT. I'M NOT ACCUSING ANYONE OF ANYTHING, BUT
2 THAT IS JUST -- THE QUICK TURN AROUND IN PRODUCING THESE
3 DOCUMENTS AS SOON AS THE COURT HAS RULED AGAINST THE OTHER
4 DOCUMENTS, WE NOW COME UP WITH NEW CERTIFICATION.

5 THE COURT FINDS THAT THE FIRST DOCUMENT IS
6 INADMISSIBLE, BECAUSE AS I SAID TO YOU THIS MORNING, IT IS IN
7 MY VIEW AN ATTEMPT TO IMPEACH A WITNESS BY CONTRADICTION ON A
8 COLLATERAL POINT.

9 MR. ZUNO'S OWNERSHIP OF LAND IN PRIMAVERA IS NOT A
10 MATERIAL ISSUE IN THIS CASE. AND WHETHER HE OWNED OR DID NOT
11 OWN LAND IS NOT GOING TO DETERMINE HIS GUILT OR INNOCENCE IN
12 THE CASE.

13 THE DEATH CERTIFICATE SUFFERS -- SINCE IT IS BEING
14 OFFERED TO PROVE THAT JORGE BARBA WAS SINGLE -- IT SUFFERS FROM
15 THE FATAL FLAW, IN MY VIEW, THAT THERE IS NO WAY FOR THE COURT
16 TO KNOW, FIRST OF ALL, WHETHER OR NOT IT IS REQUIRED BY LAW IN
17 MEXICO TO REPORT THE MARITAL STATUS OF AN INDIVIDUAL WHO HAS
18 DIED; THAT IS, ONE OF THE REQUIREMENTS OF THE STATUTE THAT IT
19 BE MADE TO A PUBLIC OFFICE PURSUANT TO REQUIREMENT OF LAW.
20 THERE IS NO EVIDENCE TO INDICATE THAT SUBMITTED THIS MOTION.

21 THE SECOND THING IS THE INFORMATION -- IT IS NOT
22 CLEAR TO THE COURT WHERE THE INFORMATION COMES FROM, WHO MADE
23 THE DETERMINATION THAT HE WAS SINGLE, HOW IT GOT TO BE WHERE IT
24 SIMPLY IS EITHER HEARSAY -- OR THERE IS NO SHOWING THAT ANYONE
25 HAD ANY PERSONAL KNOWLEDGE OF IT, SO IT CANNOT BE RECEIVED FOR

28-156

1 THAT PURPOSE. AND I THINK THE MAIN REASON IS THAT IT IS
2 OFFERED AFTER THE CLOSE OF THE EVIDENCE AND WITHOUT AN
3 OPPORTUNITY FOR THE GOVERNMENT TO INVESTIGATE THE MATTER.

4 MR. NICOLAYSEN: WILL THE COURT RECEIVE THE DEATH
5 CERTIFICATE JUST FOR PROOF OF DEATH AND REDACT ANY REFERENCE TO
6 BEING SINGLE?

7 I BELIEVE ON THAT POINT ALONE IT HAS BEEN
8 SUFFICIENTLY AUTHENTICATED, AND WE DON'T DEAL WITH MULTIPLE
9 HEARSAY ISSUES.

10 MR. BLANCARTE: WE JOIN IN THAT ARGUMENT, YOUR HONOR,
11 BECAUSE THE GOVERNMENT HAS PUT THE DEATH AT ISSUE BY PLACING
12 MR. JORGE BARBA HERNANDEZ AT LA LANGOSTA IN JANUARY OF '85. HE
13 WAS DEAD SINCE NOVEMBER OF '84 AT THAT POINT, MAKING THAT RIGHT
14 ON THE RELEVANCY PART OF THE ARGUMENT, YOUR HONOR.

15 THE COURT: I HEARD MR. MEDRANO SAY THAT IN HIS
16 OPENING ARGUMENT, THAT ONE OF THE PEOPLE IDENTIFIED AT THE
17 RESTAURANT ON JANUARY 30TH WAS JORGE BARBA.

18 MR. NICOLAYSEN: THAT'S EXACTLY THE PURPOSE THAT I
19 WOULD RESPECTFULLY ASK THE COURT TO ADMIT THE DEATH
20 CERTIFICATE. IT SUBSTANTIALLY IMPEACHES PLASCENCIA ON A
21 MATERIAL, NOT A COLLATERAL MATTER; MAINLY, IDENTIFICATION.

22 THE COURT: WHOSE IDENTIFICATION; JORGE BARBA? WE
23 DON'T CARE WHETHER HE WAS AT THE RESTAURANT OR NOT.

24 MR. NICOLAYSEN: WHAT IS MATERIAL IS PLASCENCIA'S
25 CAPACITY TO MAKE ACCURATE IDENTIFICATIONS. THE ESSENCE OF THE

28-157

1 GOVERNMENT'S CASE IS IDENTIFICATION OF MY CLIENT.

2 HIS MISIDENTIFICATION OF BARBA BEING AT THE
3 RESTAURANT TWO MONTHS AFTER HE WAS DEAD IS NOT COLLATERAL. IT
4 GOES TO THE HEART OF HIS CAPACITY.

5 MR. BLANCARTE: WE JOIN IN THAT, YOUR HONOR. IT'S
6 CLEARLY RELEVANT BASED ON THE ARGUMENTS BEING MADE BY THE
7 GOVERNMENT.

8 MR. CARLTON: WE WOULD ARGUE AGAIN, YOUR HONOR, THAT
9 ISSUE IS A COLLATERAL ISSUE AND THAT THE CHAIN OF CERTIFICATION
10 IS INCOMPLETE ON THIS DOCUMENT AND ON THE OTHER DOCUMENT.

11 THE COURT: YOU MEAN BECAUSE THE LOS ANGELES
12 CONSULATE OFFICIAL THAT CERTIFIED IT DOES NOT INDICATE HOW HE
13 HAPPENS TO KNOW?

14 MR. CARLTON: HE HAS TO CERTIFY THAT THE SIGNATURES
15 ARE GENUINE.

16 THE COURT: HE DID THAT.

17 MR. CARLTON: HOW DOES HE KNOW? THERE IS NO WAY TO
18 KNOW.

19 THE COURT: DOES THE RULE REQUIRE --

20 MR. CARLTON: THE RULE CONTEMPLATES A CHAIN OF
21 CERTIFICATIONS OF GENUINENESS, WHICH NECESSARILY MEANS THAT
22 EACH PERSON WHO CERTIFIED WHAT WENT BEFORE KNOWS FROM PERSONAL
23 KNOWLEDGE WHAT IT WAS.

24 THE COURT: DID WE HAVE SOME EVIDENCE IN THIS CASE
25 WHEN JORGE BARBA DIED?

28-158

1 MR. NICOLAYSEN: IT'S ON THE CERTIFICATE, YOUR HONOR.

2 THE COURT: PARDON?

3 MR. NICOLAYSEN: ESPARRANZA SARAGOSA VASQUEZ

4 TESTIFIED FOR DEFENSE THAT HE DIED IN OR ABOUT NOVEMBER OF
5 1984.

6 MR. BLANCARTE: NOT ONLY THAT, YOUR HONOR, BUT --

7 THE COURT: THEN IT IS ALREADY IN EVIDENCE.

8 MR. NICOLAYSEN: THIS IS SUBSTANTIALLY CORROBORATIVE.

9 THERE IS NO CREDIBILITY ISSUE ABOUT THIS DOCUMENT HERE.

10 MR. BLANCARTE: YOUR HONOR, NOT ONLY THAT, BUT
11 MR. CARLTON DOESN'T KNOW THE RULE ON 902 AND HE HAS NEVER BEEN
12 MORE WRONG IN THIS COURTROOM.

13 IT IS NOT REQUIRED THAT THERE BE A CERTIFICATE OF ANY
14 KIND OF GENUINENESS OR CHAIN OF CERTIFICATES, BECAUSE IF IN THE
15 ALTERNATIVE -- NOT EVEN A CAREFUL READING, JUST A CASUAL
16 READING OF 902.3 SHOWS THAT WE SATISFIED THE FIRST PRONG, AND
17 THE ONLY PRONG REQUIRED OF THE DEFENSE, IF THIS WERE TO BE
18 ADMITTED.

19 ONLY IF WE WERE NOT ABLE TO SATISFY THE FIRST PRONG
20 WOULD WE HAVE TO GO TO THE CHAIN OF CERTIFICATES THAT MR.
21 CARLTON IS SPEAKING OF. HE'S JUST PLAIN WRONG ON THE ISSUE,
22 YOUR HONOR.

23 THE COURT: THE DATE OF DEATH IS NOT IN DISPUTE, IS
24 IT?

25 MR. CARLTON: NO, YOUR HONOR. AS MR. NICOLAYSEN

28-159

1 REPRESENTED, THERE IS ALREADY EVIDENCE ON THAT ISSUE, AND THERE
2 IS NO NEED TO --

3 MR. BLANCARTE: IT'S VERY MUCH IN DISPUTE, YOUR
4 HONOR, BECAUSE MR. MEDRANO JUST FINISHED PUTTING JORGE BARBA
5 HERNANDEZ IN JANUARY OF 1985 --

6 THE COURT: OF COURSE WHAT HE SAYS IS NOT EVIDENCE.
7 WAS THERE ANY EVIDENCE TO THAT EFFECT?

8 MR. NICOLAYSEN: YES. MR. PLASCENCIA TESTIFIED ON
9 DIRECT EXAMINATION BY GOVERNMENT COUNSEL THAT JORGE BARBA WAS
10 AT THE LA LANGOSTA RESTAURANT AND JANUARY 30, 1985.

11 THE COURT: ALL RIGHT. THAT'S ENOUGH ARGUMENT.

12 THE COURT WILL RECEIVE THE CERTIFICATE OF DEATH ONLY
13 TO ESTABLISH THE DATE AND FACT OF DEATH, NOTHING ELSE.

14 MR. CARLTON: WE WILL REDACT THEN THE REFERENCE TO --

15 THE COURT: THAT'S CORRECT.

16 MR. NICOLAYSEN: WHAT EXHIBIT NUMBER OR LETTER
17 THEN --

18 THE COURT: WE'LL TAKE CARE OF THAT IN DUE COURSE.
19 BRING THE JURY BACK IN.

20 MR. BLANCARTE: THANK YOU, YOUR HONOR.

21 MR. NICOLAYSEN: THANK YOU. MAY I ASK THE COURT AS
22 TO WHETHER I SHOULD BEGIN MY CLOSING ARGUMENT AT 20 TO 4:00,
23 WHEN I KNOW I WON'T BE FINISHED BY 4:30.

24 THE COURT: WE'LL SEE WHAT HAPPENS, COUNSEL. LET'S
25 JUST WAIT AND SEE.

28-160

1 NOW, ILL REMIND YOU, COUNSEL, THAT YOU HAVE NOW
2 EXPENDED TWO HOURS AND 36 MINUTES.

3 MR. MEDRANO: I'LL WRAP UP IN APPROXIMATELY 15 TO 20
4 MINUTES, YOUR HONOR.

5 THE COURT: ALL RIGHT. THEN YOU'RE UP NEXT.

6 MR. NICOLAYSEN: YOUR HONOR, I WOULD BE GLAD TO GO
7 NEXT. I JUST WANT THE COURT TO KNOW THAT I CANNOT FINISH BY
8 4:30, AND I WANT TO KNOW FROM THE COURT WHETHER IT'S THE
9 COURT'S POLICY TO BREAK.

10 THE COURT: I DON'T KNOW. WE'LL SEE.

11 IF YOUR ARGUMENT IS INTERESTING, WE MIGHT CONTINUE.

12 (COURTROOM LAUGHTER.)

13 (JURY PRESENT.)

14 (CONTINUING PLAINTIFF'S CLOSING ARGUMENT)

15 MR. MEDRANO: THANK YOU, YOUR HONOR.

16 LADIES AND GENTLEMEN, DEFENSE COUNSEL FOR MR. ZUNO
17 PUT ON THE TESTIMONY FOR YOU THAT DAVID MACIA BARAJAS, THIS MAN
18 A TWICE-CONVICTED FELON FOR NARCOTICS TRAFFICKING WITHIN THE
19 UNITED STATES, BASICALLY TOLD YOU THE FOLLOWING: THAT HE HAS
20 NEVER EVER MET ZUNO BEFORE.

21 OF COURSE, CERVANTES TOLD YOU THAT HE WAS THE
22 CHAUFFEUR THAT WENT WITH ZUNO TO MANY OF THESE MEETINGS. AND
23 THAT HE DIDN'T KNOW CERVANTES IN '83 AND '84 AND '85, DIDN'T
24 MEET HIM UNTIL '87.

25 MACIAS ALSO TELLS YOU THAT FROM JANUARY TO SEPTEMBER

28-161

1 OF 1987, HE DID MANY, MANY MARIJUANA DEALS WITH CERVANTES. AND
2 FINALLY, PERHAPS THE MOST OUTRAGEOUS STATEMENT BY MACIAS, HE
3 ACCUSES AGENTS OF THE D.E.A. OF HARASSMENT AND COERCION.

4 HE BASICALLY SAYS THAT HE WAS BROUGHT OUT HERE,
5 INTERVIEWED TWO OR THREE TIMES, AND EACH TIME AGENTS OF THE
6 D.E.A. TOLD HIM YOU HAVE TO COOPERATE, YOU HAVE TO TESTIFY
7 AGAINST ZUNO. AND IF YOU DON'T, YOU'RE GOING TO SPEND THE REST
8 OF YOUR LIFE IN PRISON.

9 LADIES AND GENTLEMEN, MACIAS BARAJAS IS A LIAR AND
10 ABSOLUTELY DOES NOT DESERVE ANY CREDIBILITY. HIS STATEMENTS TO
11 YOU ARE SELF-SERVING AND COMPLETELY UNCORROBORATED BY ANY OTHER
12 WITNESS.

13 AS I HAVE TOLD YOU, HE HAS BEEN CONVICTED TWICE IN
14 THE U.S. FOR NARCOTICS TRAFFICKING, AND IN '86 FOR POSSESSING
15 WITH INTENT TO DISTRIBUTE HEROIN, AND IN '88 FOR POSSESSING
16 WITH INTENT TO DISTRIBUTE MORE THAN 50 KILOGRAMS OF MARIJUANA.

17 IN ADDITION TO THAT, HE HAS ADMITTED ON
18 CROSS-EXAMINATION THAT HE HAS TRAFFICKED REPEATEDLY IN MEXICO
19 ON MARIJUANA.

20 AND AS TO WHAT HE SAYS ABOUT CERVANTES, HE'S LYING.
21 HE CAN'T EVEN GET HIS OWN STORY STRAIGHT. ON DIRECT, WHEN
22 ASKED QUESTIONS BY THE DEFENSE LAWYER, HE SAYS I MET CERVANTES
23 WHEN I WAS AT A PAWN SHOP.

24 WHEN I CROSS-EXAMINED HIM AND ASKED HIM WHEN HE MET
25 CERVANTES, NOW HE SAID HE MET CERVANTES AT A STREET CORNER

28-162

1 WHERE CERVANTES -- AND THIS BOGGLES THE MIND -- IS AT A STREET
2 CORNER SELLING OR DISTRIBUTING MARIJUANA PACKAGES OR NARCOTICS
3 PACKAGES IN SMALL PACKETS. IT MAKES NO SENSE.

4 HE ALSO ADMITTED ON CROSS-EXAMINATION THAT WHEN THE
5 AGENTS DEALT WITH HIM THAT HE WERE PROFESSIONAL AND POLITE. HE
6 WAS NEVER PHYSICALLY ABUSED IN ANY WAY.

7 LET ME SUGGEST TO YOU WHAT HAPPENED TO DAVID MACIAS
8 BARAJAS, BECAUSE WHAT CERVANTES TOLD YOU ABOUT HIM IS
9 ABSOLUTELY AND UNEQUIVOCALLY TRUE.

10 YOU'VE HEARD TESTIMONY THAT MACIAS BARAJAS WAS
11 BROUGHT OUT HERE ON OR ABOUT JANUARY 18 OR 19, AND NOT UNTIL
12 THREE WEEKS LATER DOES THE D.E.A. TALK TO HIM. AND DURING
13 THOSE THREE WEEKS, WHERE IS MACIAS? HE'S ACROSS THE STREET AT
14 THE METROPOLITAN DETENTION CENTER, THE M.D.C., IN THE SAME
15 UNIT, 6-SOUTH, WITH RUBEN ZUNO ARCE.

16 AND I SUGGEST TO YOU THAT WHAT HAPPENED IS THAT ZUNO
17 GOT AHOLD OF HIM AND BRIBED HIM BECAUSE MACIAS'S FAMILY IS
18 STILL IN GUADALAJARA, AND PUT HIM ON THE STAND TO LIE TO YOU
19 AND MAKE THESE FALSE ACCUSATIONS ABOUT CERVANTES, AND INDEED,
20 ABOUT THE D.E.A. IN GENERAL.

21 LADIES AND GENTLEMEN, FOR RUBEN ZUNO ARCE, YOU KNOW
22 WHAT HIS ROLE IS. BECAUSE OF HIS INCREDIBLE POLITICAL
23 CONTACTS, HE IS A PROTECTION MAN, AND HE IS A DRUG TRAFFICKER
24 IN HIS OWN RIGHT. THE MASCOTA FIVE TONS OF MARIJUANA.

25 HE WAS PRESENT FOR MEETINGS WITH CARO QUINTERO AND

28-163

1 ERNESTO FONSECA AS EARLY AS 1983. MR. LAWRENCE HARRISON TOLD
2 YOU ABOUT THOSE MEETINGS. REMEMBER THE CARO BIRTHDAY PARTY AND
3 THE DANCING HORSE AND THEN THE OTHER MEETING WHERE ZUNO GOES TO
4 THE HOUSE OF FONSECA AND IS LED INTO THE PRIVATE STUDY TO MEET
5 WITH FONSECA.

6 HE PROVIDED ON TWO SEPARATE OCCASIONS A TOTAL OF SIX
7 CREDENTIALS FOR THE D.F.S. ONE IS FOR JAVIER VASQUEZ VELASCO
8 AND JAVIER VASQUEZ VELASCO TOLD YOU THROUGH THE TESTIMONY OF
9 AGENT REYNOSO THAT HE HAD RECEIVED A D.F.S. CREDENTIAL FROM
10 BARBA.

11 HE ALSO PROVIDED PROTECTION. REMEMBER HIS STATEMENT,
12 ACCORDING TO CERVANTES. AT ONE TIME HE SAID IF YOU NEED HELP
13 OR PROTECTION, I CAN SEND THE MILITARY OUT THERE.

14 CARO QUINTERO WAS AT LOPE DE VEGA. HARRISON TOLD YOU
15 THAT. REMEMBER WHEN HE WAS DRIVING BY AND HE HEARS THE RADIO
16 TRANSMISSION EMANATING FROM THE LOPE DE VEGA HOUSE. AND THE
17 SECOND TIME HE WENT, ABOUT AUGUST OF 1984, TO GO LOOK AT THE
18 GATE SYSTEM, CARO WASN'T THERE, BUT THE GATE KEEPER TOLD HIM
19 CARO ISN'T HERE. COME BACK LATER.

20 IN FACT, BARBA, WHEN HE SENT HARRISON TO THE HOUSE,
21 TOLD HIM THAT'S CARO QUINTERO'S HOUSE.

22 IN '84, BEFORE ZUNO GETS RID OF THE PROPERTY
23 OFFICIALLY, AT LEAST, IN JANUARY OF '85, YOU HAVE ZUNO AT THREE
24 OF THE FOUR CERVANTES PLANNING MEETINGS WHERE THE DISCUSSION
25 OCCURS TO KIDNAP A FEDERAL AGENT.

28-164

1 YOU HAVE THE ACTUAL KIDNAPPING AND INTERROGATION OF
2 CAMARENA, WHICH IS INDEPENDENT PROOF TO CORROBORATE WHAT
3 CERVANTES TOLD YOU.

4 AND FINALLY, YOU HAVE THIS POST-ABDUCTION MEETING.
5 REMEMBER WHENEVER EVERYONE IS ON THE RUN AND HIGH TAILING IT
6 OUT OF GUADALAJARA, AND ZUNO IMPLORES BARBA TO PROVIDE HELP, TO
7 PROVIDE EMPLOYEES TO REMOVE THE FIVE TONS THAT ARE BURIED IN
8 MASCOTA. AND THAT IS WHAT IS DONE. AND ZUNO ALSO TELLS YOU
9 THAT HE IS GETTING OUT OF TOWN AND HE CAN'T DO ANYTHING ABOUT
10 THE BOMB THAT HAS JUST EXPLODED.

11 JUAN JOSE BERNABE RAMIREZ: LADIES AND GENTLEMEN, THE
12 TESTIMONY AGAIN IS CLEAR AS TO THIS MAN, BECAUSE HE'S CHARGED
13 AS AN ACCESSORY AFTER THE FACT, AS WELL AS OTHER OFFENSES.
14 NOW, YOU KNOW THAT HIS ROLE IS THAT OF A BODYGUARD.

15 YOU KNOW THAT HE WAS A BODYGUARD AT THE FEBRUARY 1985
16 PREABDUCTION MEETING THAT CERVANTES TOLD YOU ABOUT, THAT SAID
17 THAT ZUNO WAS THERE. WELL, BERNABE WAS A GUARD. THE
18 KIDNAPPING AND TORTURE OF CAMARENA CORRBORATES ALL THIS. HE
19 HELPED CARO QUINTERO ESCAPE FROM AIRPORT. THAT'S UNEQUIVOCAL.

20 AGENT LEYVA TOLD YOU HIS IDENTIFICATION WAS POSITIVE.
21 REMEMBER LEYVA'S OWN WORDS? HE HAS THIS SIX-SHOOTER. IT WAS
22 A SMITH AND WESSON -- I FORGET THE CALIBER.

23 AND LEYVA IS POINTING THE GUN RIGHT AT THE DEFENDANT
24 BERNABE RAMIREZ, WHO HAS THE AK-47 WITH THE HUNDRED ROUND DRUM.
25 REMEMBER WHAT LEYVA TOLD YOU? HE HAS THIS GUN POINTED RIGHT ON

28-165

1 THE FOREHEAD OF BERNABE, BECAUSE HE FELT THAT BERNABE WAS
2 POINTING HIS AUTOMATIC WEAPON AT LEYVA.

3 THAT IMAGE, THAT IMPRESSION WILL FOREVER STAY WITH
4 AGENT LEYVA, AND THAT'S WHY HIS IDENTIFICATION IN THIS
5 COURTROOM FOR YOU IS CLEAR AND UNEQUIVOCAL. THAT WAS THE MAN
6 THAT WAS THERE.

7 IN ADDITION TO THAT, AND I'LL ADDRESS THIS JUST
8 BRIEFLY BECAUSE I'M ABOUT TO END, YOU KNOW FROM THE UNDERCOVER
9 TAPES THAT WERE PLAYED FOR YOU UP ON THE WALL WHEN BERNABE
10 MEETS IN AN UNDERCOVER CAPACITY WITH AGENT BERRELLEZ, WHO'S
11 PLAYING THE ROLE OF MANUEL LIZARRAGA.

12 THERE DURING THOSE MEETINGS, AND YOU HEARD IN THE OWN
13 WORDS OF THE DEFENDANT, HIS ADMISSIONS THAT HE WAS THERE AT THE
14 AIRPORT.

15 NOW, JUST BRIEFLY ON THESE UNDERCOVER MEETINGS WITH
16 AGENT BERRELLEZ, WHO WAS MANUEL LIZARRAGA -- THAT WAS HIS
17 UNDERCOVER ROLE. REMEMBER WHAT THE GAME PLAN IS HERE? AGENT
18 BERRELLEZ IS GOING TO PORTRAY HIMSELF TO BE THIS LIZARRAGA MAN,
19 THAT HE'S A COMPADRE OF CARO QUINTERO, AND HE'S BRINGING UP
20 BERNABE TO FIND OUT IF HE WAS INVOLVED WITH CAMARENA. THAT'S
21 THE GAME PLAN.

22 AND THE OTHER AGENTS WHO TESTIFIED, FOR EXAMPLE, MR.
23 DELBERT SALAZAR -- HE WAS ALSO PRESENT AND HE WAS SUPPOSED TO
24 BE UNDERCOVER A BODYGUARD FOR HECTOR BERRELLEZ. WELL, WE KNOW
25 WHAT HAPPENS.

28-166

20 1 JULY 20, BERNABE FLIES INTO LAX WITH HIS WIFE, HE'S
2 MET BY AGENT BERRELLEZ, THEY'RE DRIVEN TO THE HOTEL. WHILE
3 DRIVING, LADIES AND GENTLEMEN, AND SAW OR YOU HEARD THE
4 TESTIMONY OF THE AGENTS TELL YOU ABOUT THESE STATEMENTS --
5 BERNABE ADMITS THE FOLLOWING: THAT HE WAS A FORMER STATE
6 JUDICIAL POLICE OFFICER, THAT HE WORKED FOR FONSECA, THAT HE
7 WAS ARRESTED WITH FONSECA IN PUERTO VALLARTA, AND HE ADMITS
8 THAT HE WAS AT LOPE DE VEGA ONE TIME WHERE THE EVENT OCCURRED.

9 THE FOLLOWING DAY, ANOTHER MEETING, VIDEOTAPED. THE
10 HOWARD JOHNSON'S ROOM IN MONROVIA, CALIFORNIA. THE AGENTS
11 TESTIFY TO ADMISSIONS BY MR. BERNABE. THEY INCLUDED THE
12 FOLLOWING. BERNABE IS BRAGGING ABOUT HOW CAUTIOUS HE IS, HOW
13 CAREFUL, SO CAREFUL HE EVEN WRITES PHONES BACKWARDS. NOT EVEN
14 HIS WIFE CAN FIGURE THEM OUT.

15 HE SAYS ABOUT CAMARENA -- CAMARENA WAS REALLY NOT A
16 GRINGO. CAMARENA WAS BORN IN MEXICALI AND BECAME A NATURALIZED
17 AMERICAN. HE SAYS AND ADMITS THIS, THAT FONSECA GAVE HIM MONEY
18 TO BUY PROPERTY IN MEXICO.

19 BERNABE ADMITS THAT AS EARLY AS JULY 21 THAT HE WENT
20 TO LOPE DE VEGA WITH FONSECO AND THREE OTHERS, AND THAT HE KNEW
21 THAT CAMARENA WAS BEING HELD THERE. THAT'S WHEN HE ALLUDES --
22 ACCORDING TO THE TESTIMONY OF THE AGENTS -- THAT THERE WAS THIS
23 ARGUMENT BETWEEN CARO AND FONSECA. AND AGAIN, HE ADMITS THAT
24 HE WAS PRESENT WITH FONSECA AT THE TIME OF FONSECA'S ARREST IN
25 PUERTO VALLARTA IN APRIL OF 1985.

28-167

1 NOW, WE PLAYED A SHORT CLIP OF THE JULY 21 HOWARD
2 JOHNSON'S MEETING UP ON THE WALL FOR YOU THAT OCCURRED IN
3 MONROVIA. AMONG THE THINGS THAT YOU READ FLASHING ACCROSS THAT
4 WALL WERE THE DEFENDANT BERNABE ADMITTING SEVERAL THINGS; AMONG
5 OTHERS, THAT WHEN HE WAS AN AGENT WITH THE ATTORNEY GENERAL'S
6 OFFICE, CARO GAVE HIM AND OTHERS BOOTS AS GIFTS, AS A CHRISTMAS
7 PRESENT.

8 AND AGAIN, HE GOES INTO GREAT DETAIL ON THAT TAPE
9 THAT WAS PLAYED FOR YOU ABOUT HIS ROLE AT THE ARREST OF FONSECA
10 AT PUERTO VALLARTA. REMEMBER WHAT HE SAID ON THAT TAPE? HE
11 SAID WE WERE THERE WITH FONSECA, WE WERE ON DUTY AS BODYGUARDS.

12 THE M.F.J.P. OFFICERS COME UP THROUGH THE REAR. WE
13 PUT UP A FIGHT. I, BERNABE, FIRED TWO ROUNDS. FONSECA COMES
14 DOWN RUNNING. DON'T SHOOT, DON'T SHOOT. FINALLY, WE GIVE
15 OURSELVES UP AND ONE OF THE MEN WAS SHOT IN THE FOOT.

16 THIS WAS ALL UP ON THE WALL FOR YOU TO READ. THESE
17 WERE THE OWN WORDS OF BERNABE, NOT HERE WHEN HE HAS HIS STORY
18 STRAIGHT FINALLY, BUT BEFORE HE KNEW HE WAS BEING INVESTIGATED.

19 ON JULY 24TH, THERE IS YET ANOTHER MEETING, AGAIN AT
20 THE HOWARD JOHNSON'S ROOM, AGAIN VIDEOTAPED. AND AGAIN, THIS
21 TAPE WAS PLAYED FOR YOU ON THE WALL. SOME OF BERNABE'S
22 ADMISSIONS.

23 HE SAYS, FOR EXAMPLE, HE KNEW WHAT HE WAS GETTING
24 HIMSELF INTO AND HE ACCEPTS IT AND WOULD DO IT AGAIN, IF
25 NECESSARY. HE SAYS -- FORGIVE MY LANGUAGE, BIT THIS IS WHAT HE

28-168

1 SAID -- "I LIKED FONSECA A FUCKING LOT AND I LIKED CARO EVEN
2 MORE." HE SAYS BECAUSE HE ADMIRES THESE TWO MEN, WE WOULD
3 NEVER EVEN DREAM OF ASKING MONEY FROM THEM.

4 WHEN HE'S ADDRESSING FONSECA AGAIN -- THIS IS ON THE
5 TAPE. BERNABE SAID THAT FONSECA HAS BEEN MY SAVIOR. THAT I'M
6 FREE HERE BECAUSE FONSECA AUTHORIZED IT AND HE PAID MY BAIL
7 AFTER THE PUERTO VALLARTA ARREST.

8 HE ALSO ADMITS ON THE TAPE THAT WHEN HE WAS ARRESTED
9 IN PUERTO VALLARTA WITH FONSECA, BERNABE MADE STATEMENTS TO
10 LEAST COMPROMISE HIMSELF, AND THAT'S WHERE PULLS HIMSELF OFF AS
11 A SERVANT. AND HE ALSO ADMITS THAT HE HELPED CARO ESCAPE.

12 AT THIS MEETING -- THIS IS JUST A PORTION OF WHAT WAS
13 ALREADY PLAYED FOR YOU UP ON THE WALL -- LOOK AT SOME OF THESE
14 INCRIMINATING STATEMENTS BY BERNABE RAMIREZ.

15 BERNABE IS TALKING. "SOMETHING HAPPENS TO ME IN
16 THERE, MAN." BERNABE, WHEN HE'S TALKING ABOUT THE PUERTO
17 VALLARTA ARREST, HE'S TALKING ABOUT FONSECA. I'M FREE BECAUSE
18 THE MAN AUTHORIZED IT, AND BECAUSE HE PAID MY BAIL. THIS IS
19 HIS SAVIOR. FONSECA.

20 THEY TALK ABOUT THE AMOUNT OF MONEY THAT WAS PAID.
21 LOOK DOWN HERE. BERNABE, WHEN HE'S TALKING ABOUT HOW HE GOT
22 HIMSELF OUT OF THIS FIX, REMEMBER HE SAID HE USED TO BE A STATE
23 POLICE OFFICER FOR FOUR YEARS WHEN BERNABE TESTIFIED, BETWEEN
24 '78 AND '82. HE SAID HE KNEW HOW TO TAKE STATEMENTS. THAT
25 SURE CAME IN HANDY, BECAUSE LOOK WHAT HE SAYS.

28-169

1 BERNABE: "SO I DECLARED WHAT WOULD COMPROMISE ME THE
2 LEAST."

3 LADIES AND GENTLEMEN, THIS IS NOT A MAN WHO DOESN'T
4 KNOW WHAT HE'S DOING. THIS IS NOT A MAN WHO'S NOT CLEVER AND
5 ASTUTE. UNDER THE STRESS OF BEING ARRESTED, HE COMES UP WITH
6 THIS STORY OF BEING A SERVANT AND IS ABLE TO ESCAPE PROSECUTION
7 IN MEXICO.

8 FINALLY, JULY 25, THE CRUCIAL MEETING. BERNABE IS
9 PICKED UP AT THE ARCADIA HOTEL, AT THE ARCADIA EMBASSY SUITES
10 HOTEL. HE IS DRIVEN TO EL TORITO, AND WITH HIM IS HECTOR
11 BERRELLEZ AND DELBERT SALAZAR.

12 REMEMBER, THE AGENTS PICKED THIS DISTANCE TO DRIVE
13 BECAUSE IT WAS THE GAME PLAN OF THE AGENTS TO TAPE RECORD THE
14 CONVERSATION IN THE CAR, BECAUSE THAT'S WHETHER THE CASSETTE
15 PLAYER WAS.

16 THEY ARRIVED AT THE EL TORITO, AND AT SOME POINT
17 AGENT BERRELLEZ AND THE INFORMANT WALK OUT, MR. CASTEL, TO TRY
18 TO PUT A BLANK TAPE IN THE CASSETTE PLAYER IN THE CAR. AND
19 DURING THAT TIME, MR. SALAZAR TALKED TO THE DEFENDANT.

20 SALAZAR TESTIFIED TO IT. HE SAID -- SALAZAR SAYS TO
21 PUT THE DEFENDANT AT EASE, SALAZAR TOLD THE DEFENDANT THAT HE
22 WAS THE BROTHER-IN-LAW OF MANUEL GODINEZ, WHO WAS THIS DRUG
23 TRAFFICKER. AND THAT SERVED TO PUT BERNABE AT EASE.

24 AND THEREAFTER, BERNABE ADMITTED TO DELBERT SALAZAR
25 THAT HE WAS PRESENT DURING THE TORTURE OF CAMARENA, AND THAT

28-170

1 THE UNDERCOVER NAME MANUEL LIZARRAGA WAS NEVER MENTIONED. AND
2 OF COURSE, THIS WAS THE ROLE, THIS WAS THE GAME PLAN OF THE
3 AGENTS, TO FIND OUT IF HE WAS THERE BECAUSE IF HE WAS THERE, HE
4 WOULD KNOW WHETHER OR NOT CERTAIN NAMES WERE MENTIONED.

5 AFTER A WHILE, BERRELLEZ AND THE DEFENDANT DEPART AND
6 THEY GO BACK IN THE CAR. AND THEN PORTIONS OF THAT DRIVE BACK
7 WERE AUDIO TAPED. AND AGAIN, WE PLAYED THAT PORTION UP ON THE
8 WALL FOR YOU.

9 NOW, MANY THINGS WERE SAID BY BERNABE AT THIS TIME.
10 BERRELLEZ REPEATEDLY ASKED BERNABE IF HE WAS PRESENT AND IF
11 CAMARENA DID NOT MENTION BERRELLEZ. THE DEFENDANT ANSWERS, "I
12 WAS THERE", AND THE DEFENDANT SAYS, "I DIDN'T HEAR YOUR NAME,
13 YES, I'M SURE."

14 BERNABE ALSO OFFERS TO TRY TO GET WITNESS STATEMENTS
15 AND DECLARATIONS TO SHOW TO THE UNDERCOVER AGENT THAT HIS NAME
16 WAS NEVER MENTIONED. AND THIS IS CRUCIAL, AND IT'S PAINFUL TO
17 READ IT, BUT THIS IS WHAT WAS SAID. BERRELLEZ TALKING ABOUT
18 CAMARENA:

19 "WAS HE FUCKED UP?"

20 THE DEFENDANT RESPONDS: "HE WAS REALLY FUCKED
21 UP."

22 BERRELLEZ ASKED: "WAS HE UNCONSCIOUS?"

23 THE DEFENDANT ANSWERS: "ALMOST. ALMOST. HE
24 WAS ALL SWOLLEN, ALL THE SHIT WAS BEAT OUT OF HIM."

25 ON THE UNDERCOVER TAPE THAT WAS PLAYED FOR YOU, YOU

28-171

1 SEE HOW THERE WAS THE DESCRIPTION OF THE BRIEF ALTERCATION OR
2 ARGUMENT OF CARO AND FONSECA OUTSIDE OF THE LOPE DE VEGA HOUSE.

3 AND FONSECA TELLS CARO QUINTERO:

4 "YOU FUCKED UP. YOU SHOULDN'T HAVE DONE IT THIS
5 WAY. THIS ISN'T GOING TO BE WORTH A SHIT NOW. BUT
6 NOW WE HAVE TO GO FOR IT, AND IF WE HAVE TO GO ALL
7 THE WAY, SO BE IT, BECAUSE THE BASTARD IS ALREADY
8 DYING."

9 THESE ARE THE WORDS OF BERNABE ON THE TAPE THAT YOU
10 HEARD.

11 LADIES AND GENTLEMEN, THE JULY 25TH TAPE THAT WAS
12 PLAYED FOR YOU HIGHLIGHTS BERNABE TALKING TO AGENTS SALAZAR,
13 "S", AND "B" IS BERRELLEZ. SALAZAR SAYING TO HECTOR BERRELLEZ:

14 "HE WAS TELLING ME THAT HE HAD BEEN THERE" --
15 TALKING ABOUT THE DEFENDANT -- "WHEN THEY BEAT THE
16 SHIT OUT OF GRINGO."

17 BERNABE SAYS HE KNOWS. HE'S AGREEING.

18 DOWN FURTHER, SALAZAR:

19 "AND THAT THEY DID NOT MENTION THAT THE GRINGO
20 DID NOT FUCK BERRELLEZ OVER?"

21 BERNABE: "NOT AT ALL, SIR. NOT AT ALL."

22 LADIES AND GENTLEMEN, BERNABE WAS THERE. THAT'S WHY
23 HE'S ABLE TO STATE THESE THINGS IN AN UNDERCOVER CAPACITY TO
24 THE FEDERAL AGENTS.

25 FURTHER CONVERSATION, AGAIN DISCUSSING AGENT

28-172

1 CAMARENA. SALAZAR TALKING ABOUT CAMARENA:

2 "AND AS -- AND AS I WAS EXPLAINING, YOU WERE
3 THERE WHEN HE WAS BEATEN UP AND HE DIDN'T MENTION
4 HIM, RIGHT?"

5 REFERRING TO AGENT BERRELLEZ.

6 BERNABE RAMIREZ: "NOT AT ALL."

7 AGAIN, HE'S ABLE TO MAKE THESE STATEMENTS BECAUSE HE
8 WAS PRESENT DURING THE INTERROGATION AND DID NOT HEAR THE NAME
9 LIZARRAGA MENTIONED. ANOTHER PORTION HERE, LADIES AND
10 GENTLEMEN.

11 BERNABE RAMIREZ TALKING ABOUT WHETHER OR NOT HE WAS
12 PRESENT FOR THE TORTURE OF CAMARENA:

13 "YES, BECAUSE RIGHT NOW WHAT -- WHAT THE MAJOR
14 WAS SAYING, I WANTED TO SIGNAL HIM NO. NO,
15 BECAUSE -- BECAUSE I DON'T WANT TO TAKE UPON MYSELF
16 THE HASSLE OF -- I'M POSITIVE, SIR, I'M POSITIVE THAT
17 IN THE STATEMENTS IN THE HOT ONES, YOU WEREN'T
18 MENTIONED."

19 "IN THE HOT ONES", LADIES AND GENTLEMEN, REFERS TO
20 THE ACTUAL INTERROGATION OF CAMARENA, AND AGAIN, THE NAME
21 LIZARRAGA IS NOT MENTIONED. AND HOW DOES BERNABE KNOW THAT? I
22 SUBMIT TO YOU HE KNOWS THAT BECAUSE HE WAS THERE.

23 THIS PORTION HERE (INDICATING), BERNABE, BERNABE --
24 PARDON ME, MR. BERRELLEZ AND BERNABE.

25 AGENT BERRELLEZ: "ALL RIGHT. LOOK, WHAT I

28-173

1 WANT -- DO YOU KNOW FOR A FACT THAT THE GRINGO DIDN'T
2 FUCK ME OVER?"

3 BERNABE: "NO. NOT AT ALL, SIR."

4 BERRELLEZ: "ALL RIGHT. YOU KNOW IT FOR A FACT
5 THAT HE DID -- YOU HEARD THAT HE DID FUCK ME OVER?"

6 BERNABE: "I DID HEAR, SIR."

7 BERRELLEZ: "ARE YOU PERFECTLY AWARE?"

8 BERNABE: "YES, I'M SURE."

9 FINALLY, LADIES AND GENTLEMEN, AGAIN FINALLY, AND
10 REMEMBER ONLY A SMALL PORTION WAS ENHANCED BY THIS NORMAN PERLE
11 CALLED BY THE DEFENSE, A MAN WHO'S NOT AN EXPERT IN THIS AREA.
12 NONETHELESS, THEY PUT ON A PORTION OF THE TRANSCRIPT TO SUGGEST
13 THAT SOMEHOW BERNABE DENIES BEING THERE.

14 LADIES AND GENTLEMEN, LOOK AT THESE TRANSCRIPTS.

15 BERRELLEZ ASKS HIM: "NOW, YOU'VE CLEARED UP BY
16 DOUBTS ABOUT WHAT I HAD BEEN TOLD ABOUT THE GRINGO,
17 WHEN THEY WERE BEATING THE SHIT OUT OF HIM, BECAUSE I
18 WAS WORRIED ABOUT THAT. YOU WERE AWARE THAT THE
19 GUY -- YOU DIDN'T HEAR THE GUY --"

20 "NOT AT ALL", SAYS BERNABE.

21 "WERE YOU THERE?"

22 "YES."

23 "AND YOU WERE AWARE THAT THE GUY DIDN'T FUCK ME
24 OVER?"

25 "NOT AT ALL."

28-174

1 REPEATED INSTANCE AFTER INSTANCE TO ESTABLISH FOR YOU
2 THAT BERNABE WAS THERE, LADIES AND GENTLEMEN. THAT'S WHY HE'S
3 ABLE TO MAKE THESE UNDERCOVER STATEMENTS.

4 NOW, I MENTIONED TO YOU NORMAN PERLE PUT ON BY THE
5 DEFENSE. I GUESS THE NOTION BEHIND HIS TESTIMONY IS TO PUT ON
6 THIS ENHANCEMENT, AND THEN THEY PUT ON A TRANSLATOR TO HEAR
7 THAT ENHANCEMENT, AND SOMEHOW THEY COME UP WITH A TRANSCRIPT
8 THAT SAYS BERNABE IS DENYING THAT.

9 THAT'S NOT TRUE BECAUSE OUR ENHANCED VERSION IS
10 SAYING THAT HE WAS THERE. BUT PUTTING THAT ASIDE, NORMAN PERLE
11 IS PERHAPS THE MOST UNQUALIFIED MAN TO EVER TESTIFY IN A
12 FEDERAL COURT OF LAW.

13 THIS IS A SELF-PROCLAIMED EXPERT IN FORENSICS AND
14 AUDIO ANALYSIS. HE HAS ONLY A HIGH SCHOOL DEGREE. HE LIED TO
15 OTHER COURTS AND JURIES. HE SAID HE HAD AN ASSOCIATE OF ARTS
16 DEGREE; HE NEVER DID. HE LIES AND TELLS THEM HE'S A SWORN
17 POLICE OFFICER WHEN, IN FACT, ALL HE HAS IS THIS HONORARY BADGE
18 FROM MADERO COUNTY. YOU CANNOT ASSIGN ANY WEIGHT TO HIS
19 TESTIMONY, I SUBMIT TO YOU.

20 AND I SUBMIT TO YOU THAT AS A RESULT OF HIS POOR
21 QUALIFICATIONS, THE ENHANCEMENT THAT HE DID IS A POOR ONE AND
22 DOES NOT NEARLY MATCH THE ENHANCEMENT MADE FOR YOU BY THE
23 GOVERNMENT'S F.B.I. EXPERT, MR. BRUCE KOENIG, WHOSE CREDENTIALS
24 ARE BEYOND REPROACH.

25 THIS IS A MAN WHO KNOWS WHAT TO DO WITH REGARD TO

28-175

1 SOUND ENHANCEMENT. HE HAS BEEN 16 YEARS WITH THE F.B.I., HE
2 HAS HAD BEEN DEALING WITH MAGNETIC TAPE ANALYSIS AND HAS
3 REVIEWED OVER 7500 TAPES. HE HAS A BACHELORS OF SCIENCE, AS
4 WELL AS MASTER DEGREE. ALL OF THESE CREDENTIALS PERLE IS
5 UTTERLY LACKING IN. HE HAS PUBLISHED SCIENTIFIC ARTICLES.
6 PERLE HAS PUBLISHED ARTICLES FOR POLICE OFFICERS, NONE SUBJECT
7 TO PEER REVIEW. AND HE TEACHES.

8 NONE OF THESE THINGS DOES MR. PERLE DO, AND FOR THAT
9 REASON, I SUBMIT TO YOU YOU SHOULD ASSIGN NO WEIGHT TO WHAT HE
10 HAS TOLD YOU.

11 NOW, YOU ALSO HEARD THE TESTIMONY OF THE WIFE OF THE
12 DEFENDANT, MRS. BERNABE RAMIREZ, AND I THINK SHE WAS PUT ON FOR
13 YOU JUST TO ESTABLISH A COUPLE THINGS. ONE, THAT THERE WAS
14 SOME KIND OF SETUP TO TRY TO SET UP, I GUESS, BERNABE. AND
15 TWO, THAT ON THE EVENING OF JULY 25 WHEN HE COMES BACK FROM THE
16 EL TORITO RESTAURANT AFTER MEETING WITH THE AGENTS AND MAKING
17 THESE GROSS ADMISSIONS ON THE TAPE THAT YOU HEARD, THAT HE WAS
18 DRUNK, HE WAS STAGGERING.

19 LADIES AND GENTLEMEN, YOU CAN DISCOUNT AND PUT ASIDE
20 HER TESTIMONY FOR THE SIMPLE REASON THAT SHE'S BIASED. THIS IS
21 THE WIFE OF A MAN WHO'S FACING SIGNIFICANT CHARGES IN THIS
22 FEDERAL COURT. AND SHE ADMITTED ON MY CROSS-EXAMINATION THAT
23 SHE LOVES THE DEFENDANT AND WOULD HELP HIM ANY WAY SHE CAN.

24 I WOULD RESPECTFULLY SUBMIT TO YOU THAT HER TESTIMONY
25 SHOULD NOT BE ACCORDED ANY WEIGHT.

28-176

1 ALSO, IN SUPPORT OF THIS THEORY THAT THE DEFENDANT
2 WAS DRUNK SOMEHOW, YOU HEARD THE TESTIMONY OF MR. HENRY
3 GREENBERG, THE ALCOHOL BLOOD EXPERT.

4 WELL, LADIES AND GENTLEMEN, HIS OPINION WAS THAT IF
5 YOU ACCEPT THE INFORMATION GIVEN TO HIM BY THE DEFENSE, WHICH
6 IS 12 BEERS IN FIVE HOURS FOR 175-POUND MAN, SUCH A MAN WOULD
7 BE COMPLETELY OUT OF IT, DISORIENTED, MEMORY LOSS, PERCEPTION
8 AFFECTED, STAGGERING, SLURRING.

9 WELL, LADIES AND GENTLEMEN, HIS TESTIMONY IS
10 IRRELEVANT FOR YOU, AND I'LL TELL YOU WHY. NUMBER ONE, HE
11 NEVER, EVER TESTED THE BLOOD OF BERNABE ON THE EVENING OF JULY
12 25, SO HIS TESTIMONY IS SHEER SPECULATION.

13 NUMBER TWO, HE ADMITTED ON CROSS-EXAMINATION THAT HE
14 HAS ABSOLUTELY NO OPINION OF THE EFFECT OF ALCOHOL ON A
15 PERSON'S ABILITY TO LIE OR TO TELL THE TRUTH. AND FINALLY,
16 LET'S CUT STRAIGHT TO THE HEART OF THE MATTER AS TO WHAT REALLY
17 HAPPENED HERE.

18 THESE AGENTS TOLD YOU QUITE CANDIDLY WE HAD TWO TO
19 FOUR BEERS, BERNABE HAD THREE TO FOUR BEERS. THAT WAS IT. I
20 ASKED THIS EXPERT: CHANGE THE HYP (SIC) TO THREE TO FOUR
21 BEERS, FIVE HOURS FOR A MAN OF BERNABE'S WEIGHT. WHAT EFFECT?
22 TRACE AMOUNTS OF ALCOHOL.

23 YOU'RE SOBER. THERE IS NO EFFECT. SIGNIFICANTLY
24 LOWER THAN .08, IF ONE IS CAUGHT DRIVING WHILE INTOXICATED.

25 FINALLY, LADIES AND GENTLEMEN, YOU HAVE HEARD THE

28-177

1 TESTIMONY OF BERNABE RAMIREZ UNDER OATH. HE TOOK THE STAND AND
2 HE TOLD YOU SOME STARTLING THINGS. BUT HE ALSO TOLD YOU THINGS
3 THAT CORROBORATES A SIGNIFICANT PART OF THE GOVERNMENT'S CASE.

4 HE DID ADMIT THAT HE WAS A STATE JUDICIAL POLICE
5 OFFICER IN THE HOMICIDE SQUAD, AND HE ALSO TOLD YOU THAT HIS
6 ENTIRE CAREER HAS BEEN PREDICATED ON JOBS INVOLVING SECURITY
7 AND PROTECTION OF PROPERTY AND PERSONS. HE HAS BEEN DOING THAT
8 SINCE HE STOPPED BEING A POLICE OFFICER IN 1982.

9 SO, FOR EXAMPLE, HE WAS THE CHIEF OF BODYGUARDS FOR
10 AN OWNER OF A SHOE STORE -- OF A SHOE COMPANY. REMEMBER THE
11 PLACE CALLED THE PALANQUE? THAT IS A COCKFIGHT ARENA. THAT
12 ALSO HAS A BAR AND RESTAURANT. HE WAS THE CHIEF OF SECURITY AT
13 THAT PLACE.

14 AND IT IS AT THAT PLACE THAT HE MET FONSECA. HE TOLD
15 YOU THIS ON THE STAND, AND FONSECA RECRUITED HIM AWAY. FONSECA
16 TAKES HIM TO BE THE CHIEF OF SECURITY AT A SPORTS CLUB OWNED BY
17 FONSECA. AND THEREAFTER -- AND THIS IS WHAT BERNABE TOLD
18 YOU -- THEREAFTER, FONSECA TAKES BERNABE TO BE THE CHIEF OF
19 SECURITY AT ONE OF THE OFFICES OF FONSECA CALLED LA BAJADITA.

20 THAT CORROBORATES WHAT MR. PLASCENCIA TOLD YOU WHEN
21 HE DESCRIBES THAT DECEMBER 1984 MEETING WHETHER THE PHOTOGRAPH
22 OF SPECIAL AGENT CAMARENA -- PARDON ME, OF CAMARENA -- IS
23 PASSED AROUND FOR THE DRUG TRAFFICKERS TO SCRUTINIZE.

24 HE ALSO ADMITTED TO YOU THAT FOR VIRTUALLY ALL THESE
25 SECURITY JOBS, HE WOULD BE ARMED. HE ALSO CORROBORATES THE

28-178

1 GOVERNMENT'S CASE BECAUSE HE TOLD YOU THAT LA BAJADITA IS AN
2 OFFICE OF FONSECA AND, THAT OTHER DRUG TRAFFICKERS WENT THERE,
3 INCLUDING CARO, BARBA, THE TIERRA LIBRE BROTHERS, MINUS JAVIER
4 VASQUEZ, OF COURSE.

5 JAVIER VASQUEZ NEVER HANGS AROUND WITH THE TIERRA
6 LIBRE BROTHERS, ACCORDING TO THE DEFENSE WITNESSES. AND
7 INVARIABLY, LAW ENFORCEMENT OFFICIALS ARRIVE AT LA BAJADITA.
8 THIS IS WHAT BERNABE TELLS YOU -- MILITARY, STATE POLICE,
9 M.F.J.P., D.F.S., ET CETERA, ET CETERA.

10 NOW, HE CONCOCTS A STORY FOR YOU THAT HE DIDN'T KNOW
11 THAT FONSECA WAS INVOLVED IN NARCOTICS TRAFFICKING. AND I
12 GUESS THE NOTION IS THAT SOMEHOW HE GOT SUCKED INTO THE
13 BUSINESS, AND BEFORE HE KNEW IT, IT WAS AS TOO LATE TO BACK
14 OUT. HE WAS SCARED TO.

15 I THINK THAT'S WHAT HE WAS TRYING TO TELL YOU. AND
16 PERHAPS THE GREATEST SLAP IN THE FACE TO YOUR COMMON SENSE, HE
17 SAYS, "I WAS A LOW RANKING EMPLOYEE."

18 WELL, I SUBMIT TO YOU CHIEFS OF SECURITY FOR AN
19 ENTIRE HOUSEHOLD, AN OFFICE WHERE MAJOR DRUG TRAFFICKERS MEET,
20 IS NOT A PEON, IS NOT A LOW LEVEL EMPLOYEE.

21 NOW, HE SETS ALL THIS UP IN THIS FASHION BECAUSE HE'S
22 TRYING TO CONVINCE YOU OF CERTAIN THINGS. FIRST OF ALL, HE
23 ADMITS THAT HE WENT TO THIS HOUSE -- NOT LOPE DE VEGA, SOME
24 OTHER HOUSE ON ANOTHER STREET -- AND HE STAYED OUTSIDE. AND
25 FONSECA AND SAMUEL RAZO GO INSIDE, THEY'D COME OUT AND THEN

28-179

1 WE'D LEAVE.

2 WHAT HE'S TRYING TO TELL YOU IS THAT YES, I WAS AT A
3 HOUSE, BUT IT WASN'T LOPE DE VEGA, AND I HAD NO IDEA WHAT WAS
4 GOING ON INSIDE THE HOUSE.

5 BULL. BECAUSE THE EVIDENCE SUGGESTS DIRECTLY TO THE
6 CONTRARY. HE ADMITS TO YOU SOMETHING VERY SIGNIFICANT. NO
7 MATTER HOW CLEVER YOU TRY TO BE, THE TRUTH ALWAYS COMES OUT.
8 HE ADMITS THAT WHEN WAS WORKING FOR FONSECA AND AFTER THE BOMB
9 FELL WITH REGARD TO SPECIAL AGENT CAMARENA, FONSECA WENT ON THE
10 RUN. AND BERNABE WENT WITH HIM, BECAUSE HE'S A CLOSE
11 CONFIDANT. HE'S THE CHIEF OF SECURITY.

12 AND FONSECA TAKES BERNABE TO GO TO A RANCH BELONGING
13 TO FONSECA OUTSIDE OF GUADALAJARA AND STAY THERE ONE MONTH.
14 THEN THEY LEAVE FOR A WEEK FOR A HOUSE OWNED BY FONSECA.
15 BERNABE IS STILL WITH HIM.

16 FINALLY, THEY GO TO PUERTO VALLARTA, AND THERE IS
17 BERNABE. AND THE DEFENDANT ADMITS TO YOU THAT AT ONE OF THOSE
18 EARLY TIMES WHEN FONSECA WAS FLEEING, FONSECA ADMITTED TO
19 BERNABE THAT FONSECA WAS ON THE RUN BECAUSE OF THE CAMARENA
20 THING.

21 WELL, YOU THINK ABOUT THAT, LADIES AND GENTLEMEN.
22 YOU THINK ABOUT THAT BECAUSE I SUBMIT TO YOU THAT ONLY IF
23 YOU'RE A CLOSE CONFIDANT, CLOSE EMPLOYEE OF A DRUG DEALER, IS
24 HE GOING TO TELL YOU THAT KIND OF INFORMATION. IF YOU ARE A
25 LOW-LEVEL PEON, A GOFER-TYPE EMPLOYEE, A MAJOR DEALER LIKE

28-180

1 FONSECA -- AND THAT IS WHAT FONSECA WAS -- IS NOT GOING TO TELL
2 THAT KIND OF SPECIAL, UNIQUE CONFIDENTIAL INFORMATION TO A
3 LOW-LEVEL PERSON. NO.

4 FONSECA TOLD HIM THAT AND THAT'S TRUE. AND HE TOLD
5 HIM THAT BECAUSE BERNABE IS ALSO INVOLVED WITH REGARD TO THE
6 CAMARENA ABDUCTION.

7 NOW, ONE OF THE MOST REMARKABLE THINGS ABOUT HIS
8 TESTIMONY, LADIES AND GENTLEMEN -- THESE TAPES -- YOU'VE HEARD
9 THE TRANSCRIPTS. BERNABE, IN THE UNDERCOVER TAPES WITH AGENT
10 BERRELLEZ BEFORE HE KNEW HE WAS BEING INVESTIGATED, ADMITS THAT
11 HE WAS AT THE AIRPORT TO HELP CARO QUINTERO ESCAPE.

12 DO YOU REMEMBER THE INCREDIBLE DETAIL? BERNABE ON
13 THE UNDERCOVER TAPES. "WE ALL HAD AK-47'S. WE HAD THE DRUMS."
14 LEYVA TOLD YOU THAT. WE HAD THE ARMED CONFRONTATION. IT'S
15 TENSE. PAVON REYES WAS THERE. THIS IS BERNABE ON THE TAPE.
16 LEYVA TOLD YOU ALL THAT.

17 BOTH SIDES ARE YELLING AT EACH OTHER. THERE'S
18 TENSION. "DROP YOUR GUN," SAYS ONE SIDE. "NO, YOU DROP
19 YOURS", SAID THE OTHER SIDE.

20 THE DETAIL IS SO INCREDIBLE, LADIES AND GENTLEMEN.
21 IT'S DETAIL BECAUSE HE WAS THERE, AND YET THIS MAN BERNABE HAS
22 THE AUDACITY TO TAKE THE STAND UNDER OATH AND TO TELL YOU NOW
23 "I WAS LYING WHEN I SAID ON THE UNDERCOVER TAPES THAT I WAS
24 WITH CARO. I MADE THAT UP. I GOT IT FROM A MAGAZINE SOMEHOW."

25 LADIES AND GENTLEMEN, THAT'S AN INSULT TO YOUR

28-181

1 INTELLIGENCE. AND I ASK YOU TO TAKE THE FACT THAT THIS MAN
2 BERNABE IS TRYING TO LIE TO YOU IN THIS FASHION. AND IT IS
3 FURTHER EVIDENCE OF GUILT, I WOULD RESPECTFULLY SUBMIT TO YOU.

4 LADIES AND GENTLEMEN, BERNABE RAMIREZ -- HE'S A
5 BODYGUARD. HE'S A BODYGUARD AT THE FEBRUARY 1985 PREABDUCTION
6 MEETING WHERE ZUNO IS PRESENT. CERVANTES TOLD YOU THAT.

7 THE KIDNAPPING INTERROGATION OF CAMARENA CORROBORATES
8 EVERYTHING THAT CERVANTES AND PLASCENCIA AGUILAR TOLD YOU.

9 LOOK WHAT HE ADMITS ON THE TAPES UNDER COVER ABOUT
10 LOPE DE VEGA. HE WAS THERE, HE WAS PRESENT, HE SAW CAMARENA
11 SWOLLEN. HE CAN TELL YOU ALL THIS ON THE TAPES BECAUSE HE WAS
12 THERE.

13 FEBRUARY 9 AIRPORT. HE HELPED CARO QUINTERO ESCAPE.
14 THAT'S UNEQUIVOCAL. AGENT LEYVA TOLD YOU ABOUT THAT. HE
15 IDENTIFIED HIM FOR YOU. AND HIS OWN ADMISSIONS ON THE JULY 25
16 AND OTHER TAPES, HE ADMITS THAT HE WAS THERE. AND YET NOW WHEN
17 HE TOOK THE STAND, HE DENIES IT. AND AGAIN, OF COURSE, HIS
18 TESTIMONY FOR YOU, WHICH IS SO INCONSISTENT, AT TIMES
19 PERPLEXING, AND JUST SIMPLY UNBELIEVABLE.

20 YOU PUT ALL THAT TOGETHER. BERNABE RAMIREZ HELPED
21 CARO QUINTERO ESCAPE AND BERNABE RAMIREZ WAS A BODYGUARD FOR
22 THIS ENTERPRISE WHEN THEY KIDNAPPED AND THEY HELD AT LOPE DE
23 VEGA AGAINST HIS WILL SPECIAL AGENT ENRIQUE CAMARENA.

24 LADIES AND GENTLEMEN, THERE HAS BEEN AN INCREDIBLE
25 AMOUNT OF EVIDENCE IN THIS CASE THAT HAS LASTED OVER TWO

28-182

1 MONTHS. IT HAS BEEN ALONG TRIAL, A LOT OF WITNESSES, A LOT OF
2 DOCUMENTARY AND OTHER TYPES OF PHYSICAL EVIDENCE FOR YOU.

3 THAT'S UNAVOIDABLE BECAUSE IT IS A COMPLICATED CASE
4 FROM THAT PERSPECTIVE. BUT WHEN YOU CUT TO THE HEART OF THE
5 MATTER HERE, WHEN YOU GO TO THE CENTER OF THINGS, IT IS A
6 SIMPLE CASE, BECAUSE NOW YOU KNOW SEVERAL THINGS.

7 YOU KNOW FIRST, WHAT HAPPENED. YOU KNOW SECOND, WHY
8 IT HAPPENED, AND YOU KNOW FINALLY, AND MOST IMPORTANTLY, WHO
9 WAS RESPONSIBLE.

10 NOW, THE GOVERNMENT IN THIS CASE PROPERLY AND AS IT
11 SHOULD BE UNDER OUR CONSTITUTION, HAS THE BURDEN OF PROOF. WE
12 SHOULD ESTABLISH TO YOUR SATISFACTION BEYOND A REASONABLE DOUBT
13 THE GUILT OF MATTA, ZUNO, BERNABE, AND JAVIER VASQUEZ. THAT IS
14 THE WAY IT SHOULD BE, LADIES AND GENTLEMEN.

15 AND BECAUSE THE GOVERNMENT HAS THAT BURDEN, WE WILL
16 SPEAK TO YOU FIRST, AS I'M DOING NOW, AND IN REBUTTAL, AFTER
17 YOU HAVE HEARD THE CLOSING ARGUMENTS OF RESPECTIVE DEFENSE
18 COUNSEL.

19 AND I SUBMIT TO YOU THAT AFTER YOU HAVE HEARD ALL THE
20 CLOSING ARGUMENTS, THAT AFTER YOU'VE HEARD THE GOVERNMENT'S
21 REBUTTAL, THAT YOU WILL THEN BE IN A POSITION TO RETURN A
22 VERDICT THAT IS CONSISTENT WITH THE EVIDENCE OF THIS -- WITH
23 THE EVIDENCE THAT YOU HAVE HEARD DURING THIS TWO-MONTH TRIAL.

24 AND THAT EVIDENCE ESTABLISHES THAT MATTA IS GUILTY,
25 BERNABE IS GUILTY, ZUNO IS GUILTY AND JAVIER VASQUEZ IS GUILTY.

28-183

1 I THANK YOU FOR YOUR ATTENTION.

2 THE COURT: ALL RIGHT. THE NEXT COUNSEL TO PRESENT
3 FINAL ARGUMENT IS COUNSEL FOR MR. VASQUEZ. YOU MAY BEING,
4 COUNSEL.

5 MR. NICOLAYSEN: THANK YOU, YOUR HONOR. I WILL NEED
6 JUST A MOMENT AS THE GOVERNMENT CLEARS THE EXHIBITS. YOUR
7 HONOR, IT'S CLEAR THAT I WILL NOT BE ABLE TO CONCLUDE BY 4:30
8 TODAY.

9 (BRIEF INTERRUPTION.)

10

11 CLOSING ARGUMENT + ON BEHALF OF VASQUEZ VELASCO

12

13 MR. NICOLAYSEN: GOOD AFTERNOON, LADIES AND
14 GENTLEMEN. AS YOU KNOW BY NOW, I REPRESENT THE DEFENDANT
15 JAVIER VASQUEZ VELASCO, THE ONE DEFENDANT IN THIS COURTROOM
16 THAT MOST OF YOU PROBABLY CANNOT SEE, SO I HAVE ASKED MY CLIENT
17 TO STAND FOR JUST A MOMENT SO YOU CAN SEE WHO HE IS.

18 THIS IS THE ONE AND ONLY OPPORTUNITY THAT I WILL
19 HAVE, AS ANY DEFENSE ATTORNEY WOULD HAVE AT THE END OF THE CASE
20 TO ADDRESS THE JURY. WHAT I'M GOING TO DO NOW -- AND I'M SURE
21 THIS WILL CARRY OVER TO TOMORROW MORNING -- IS TO TAKE THE LAST
22 TWO AND A HALF MONTHS AND DISTILL ALL OF THAT TESTIMONY AND ALL
23 OF THAT EVIDENCE DOWN TO THE BOTTOM LINE REGARDING JAVIER
24 VASQUEZ VELASCO.

25 JAVIER VASQUEZ IS NOT HERE BECAUSE OF ALLEGATIONS

28-184

1 REGARDING CAMARENA OR ZAVALA. HE'S THE ONE DEFENDANT IN THIS
2 COURTROOM WHO HAS NO CHARGES REGARDING CAMARENA OR ZAVALA.
3 HE'S NOT HERE BECAUSE OF ALLEGATIONS ABOUT BEING A BODYGUARD OR
4 ALLEGATIONS ABOUT TRANSPORTING MARIJUANA OR ALLEGATIONS
5 REGARDING CREDENTIALS.

6 JAVIER VASQUES IS HERE BECAUSE OF WHAT IS ALLEGED IN
7 COUNTS ONE AND TWO OF THE INDICTMENT. AND THOSE TWO COUNTS
8 SPECIFICALLY CHARGE HIM WITH PARTICIPATING IN OR AIDING AND
9 ABETTING THE DEATHS -- THE MURDERS OF JOHN WALKER AND ALBERTO
10 RADELAT ON JANUARY 30 OF 1985 AT THE LA LANGOSTA RESTAURANT.

11 THAT IS THE BOTTOM LINE OF WHAT HE'S CHARGED WITH,
12 THAT IS THE REASON THAT HE'S HERE. AND THAT'S WHAT WE NEED TO
13 FOCUS ON.

14 IT'S MURDER IN THE CONTEXT OF A RACKETEERING
15 ENTERPRISE THAT IS ALLEGED HERE, BUT THE BOTTOM LINE IS WHETHER
16 THE GOVERNMENT HAS ESTABLISHED TO YOUR SATISFACTION THAT JAVIER
17 VASQUEZ PARTICIPATED IN OR AIDED AND ABETTED IN THE MURDERS OF
18 JOHN WALKER AND ALBERTO RADELAT.

19 WHAT IS THE BOTTOM LINE IN THE GOVERNMENT'S CHARGE OF
20 WALKER AND RADELAT AT LA LANGOSTA? IT'S ONE WITNESS: ENRIQUE
21 PLASCENCIA AGUILAR. MY CLIENT HAS BEEN HERE, LITERALLY, FOR
22 TWO AND HALF MONTHS. AND THE GOVERNMENT HAS PUT ON ONE WITNESS
23 ON LA LANGOSTA, AND THAT IS MR. PLASCENCIA.

24 AND THE FIRST AND, I THINK, MOST IMPORTANT POINT TO
25 BEGIN WITH IN DISCUSSING MR. PLASCENCIA IS THE FACT THAT HE

28-185

1 STANDS ALONE AS A WITNESS IN THIS TRIAL. HE STANDS ALONE
2 BECAUSE HE TOLD US ON DIRECT THAT THERE WERE 40 OR 50 PEOPLE AT
3 LA LANGOSTA THAT DAY, BUT HE IS THE ONLY WITNESS IN THE LAST
4 TWO AND HALF MONTHS WHO TESTIFIED ABOUT THE EVENTS AT LA
5 LANGOSTA. HE STANDS ALONE.

6 THIS IS A VERY UNORTHODOX MURDER CASE IN THE SENSE
7 THAT THERE IS NO PHYSICAL EVIDENCE OF THE EVENTS AT LA LANGOSTA
8 THAT IN ANY WAY WOULD CORROBORATE WHAT HE SAID. NO
9 PHOTOGRAPHS, NO FINGERPRINTS, NO HAIR SAMPLE. THERE WERE NO
10 BODIES FOUND AT THE RESTAURANT, NO WEAPONS RECOVERED.

11 WHAT THAT MEANS, IN A NUTSHELL, IS THAT THE
12 GOVERNMENT'S ENTIRE CASE REGARDING THE MURDERS OF JOHN WALKER
13 AND ALBERTO RADELAT DEPENDS EXCLUSIVELY ON MR. PLASCENCIA'S
14 TESTIMONY OF WHAT HAPPENED THERE.

15 NOW, I SUBMIT TO YOU THAT BY THE TIME WE ARE DONE
16 DISCUSSING HIS TESTIMONY, YOU'LL BE SATISFIED THAT THIS
17 INDIVIDUAL, PLASCENCIA AGUILAR, DOES NOT DESERVE ONE SHRED OF
18 CREDIBILITY. THE GOVERNMENT HAS INVESTED IT'S ENTIRE CASE ON
19 HIM ALONE.

20 NOW, LET'S SUMMARIZE WHAT HE TOLD US ABOUT LA
21 LANGOSTA. HE TOLD US THAT HE WENT THERE WITH A GROUP OF FELLOW
22 OFFICERS FROM THE INVESTIGACIONES POLITICALES Y SOCIALES, THE
23 I.P.S. I'M SURE YOU RECALL THE REFERENCE TO THAT LAW
24 ENFORCEMENT AGENCY.

25 AND HE WENT THERE IN THE EARLY AFTERNOON AROUND 2:00.

28-186

1 THERE WAS A GROUP, AND THEY WERE GOING TO A HOTEL NEXT DOOR.
2 AND THERE WAS A COMMANDER IN THE GROUP WHOSE NAME WAS LUIS
3 GONZALES ONTIVEROS. AND I'M GOING TO BE REPEATING THAT NAME A
4 NUMBER OF TIMES DURING MY ADDRESS TO YOU, LADIES AND GENTLEMEN,
5 AND YOU MIGHT WANT TO MAKE A NOTE OF THAT NAME BECAUSE IT'S
6 VERY, VERY SIGNIFICANT. LUIS GONZALES ONTIVEROS.

7 MR. PLASCENCIA TOLD YOU THAT HE WAS IN A GROUP OF
8 PEOPLE FROM THE I.P.S. IN A VAN. ONTIVEROS WAS THE COMMANDER.
9 AND HE WENT TO A HOTEL, PARKED THE VAN IN THE PARKING LOT OF LA
10 LANGOSTA AND GOT OUT. HE COULD PEEK INSIDE, SEE THAT THERE IS
11 A PARTY GOING ON, AND THEY ALL GO INSIDE -- PLASCENCIA,
12 ONTIVEROS AND THE OTHER MEMBERS OF THIS I.P.S. GROUP.

13 PLASCENCIA TOLD US THAT HE STAYED FOR ABOUT FIVE
14 HOURS AND AT ABOUT 7:00, PLASCENCIA, ONTIVEROS AND THE OTHER
15 MEMBERS OF THIS I.P.S. GROUP, GET UP AND LEAVE.

16 PLASCENCIA FURTHER TOLD US THAT AS THE GROUP WAS
17 LEAVING, HIMSELF, ONTIVEROS AND THE OTHERS, AS THEY WERE
18 GETTING INTO THEIR VAN IN THE PARKING LOT, TWO ANGLO-LOOKING
19 PEOPLE HAPPENED TO BE ARRIVING. THEY GET IN THE VAN, MR.
20 ONTIVEROS IS IN THE DRIVER'S SEAT.

21 AND MR. PLASCENCIA SAID TO US ON DIRECT EXAMINATION
22 THAT QUOTE, END QUOTE, ALMOST INSTINCTIVELY, MR. ONTIVEROS
23 LOOKS OVER HIS SHOULDER AND HAPPENS TO NOTICE THAT ONE OF THOSE
24 TWO MEN WHO JUST ARRIVED LOOKED AS THOUGH HE WAS TRYING TO
25 LEAVE AND SEEMS TO BE GETTING PULLED BACK INSIDE.

28-187

1 SO MR. ONTIVEROS SAYS TO THE REST OF THIS GROUP OF
2 PEOPLE, WHICH INCLUDED MR. PLASCENCIA, LET'S GET OUT OF THE VAN
3 AND GO HAVE A LOOK. SO ACCORDING TO MR. PLASCENCIA, THAT'S
4 WHAT THEY DID. THEY WENT TO THE DOORWAY. AND ACCORDING TO MR.
5 PLASCENCIA, THEY LOOKED INSIDE AND SAW THESE BEATINGS OF THESE
6 TWO INDIVIDUALS.

7 MR. PLASCENCIA TOLD US THAT HE AND MR. ONTIVEROS AND
8 THE OTHER MEMBERS OF THIS GROUP STOOD IN THE DOORWAY AT THE
9 RETAURANT, AND THEN MR. ONTIVEROS SAYS TO THEM, "WELL, IT'S
10 GETTING CLOSE TO 7:15 AND WE NEED TO GET BACK TO OUR OFFICE",
11 THE I.P.S. OFFICE, -- "SO LET'S GO."

12 AND SO THEY WENT AND GOT BACK IN THEIR VAN, ONTIVEROS
13 DRIVING, AND THEY WENT BACK TO THE I.P.S. OFFICE. PLASCENCIA
14 SAID ON CROSS-EXAMINATION BY ME THAT HE WAS AT THE I.P.S.
15 OFFICE ALL EVENING, AFTER RETURNING THERE, AND THAT MR.
16 ONTIVEROS, IN FACT, WAS WITH HIM.

17 NOW THAT, IN A NUTSHELL, IS THE OUTLINE OF WHAT MR.
18 PLASCENCIA TOLD US ABOUT THE EVENTS AT LA LANGOSTA. EVERYTHING
19 THAT HE TOLD US HINGES ON HIS BEING WITH MR. ONTIVEROS. HE
20 SAID UNDER OATH HERE IN COURT THAT HE ARRIVED WITH
21 MR. ONTIVEROS, HE DINED AND PARTIED AT LA LANGOSTA WITH MR.
22 ONTIVEROS, HE LEFT AT 7:00 WITH MR. ONTIVEROS. THAT HE,
23 PLASCENCIA AND MR. ONTIVEROS, WERE NOTHING MORE THAN CASUAL
24 OBSERVERS OF THESE BEATINGS THAT PLASCENCIA WAS TALKING ABOUT,
25 AND THAT THEY JUST LEFT AT A CERTAIN POINT WHILE THESE TWO

28-188

1 PEOPLE WERE STILL BEING BEATEN, AND WENT BACK TO THEIR OFFICE.

2 THE ENTIRETY OF PLASCENCIA'S TESTIMONY DEPENDS ON HIS
3 BEING WITH MR. ONTIVEROS. NOW, WHY IS THAT SO IMPORTANT? I'LL
4 TELL YOU WHY, BECAUSE THERE IS A DEFENSE EXHIBIT THAT HAS BEEN
5 ADMITTED INTO EVIDENCE. AND I'LL ASK THAT YOU WILL PLEASE MAKE
6 A NOTE OF THE LETTER. IT'S EXHIBIT P, AS IN PETER. IT WAS
7 RECENTLY ADMITTED. I DON'T EXPECT THAT ANY OF YOU KNOW WHAT IT
8 IS, SO I'M GOING TO SPEND SOME TIME NOW. PERHAPS I'LL FINISH
9 THIS AFTERNOON AND PERHAPS NOT.

10 I'M GOING TO BE DISCUSSING THIS EXHIBIT IN DETAIL
11 WITH YOU BECAUSE WHAT IT'S GOING SHOW YOU IS THAT THERE ARE NOT
12 JUST SERIOUS CREDIBILITY PROBLEMS WITH THE ACCOUNT THAT MR.
13 PLASCENCIA GAVE YOU HERE AT TRIAL, BUT MR. PLASCENCIA IS
14 LITERALLY ANNIHILATED AS A WITNESS HERE AT TRIAL. LET'S NOW
15 TURN OUR ATTENTION TO EXHIBIT P AND SEE EXACTLY WHAT IT IS.

16 IT IS THIS DOCUMENT RIGHT HERE A FOUR-PAGE TELEX
17 DATED NOVEMBER 15 OF 1985. IT WAS PREPARED BY AGENT ROBERT
18 CASTILLO, A D.E.A. AGENT WHO WAS STATIONED AT THE TIME IN
19 MEXICO CITY. AGENT CASTILLO TESTIFIED HERE AT TRIAL THAT ON
20 NOVEMBER 14TH, JUST THE DAY BEFORE HE PREPARED THIS CABLE, HE
21 WAS INVITED BY THE CHIEF OF INTERPOL DOWN IN MEXICO CITY
22 FLORENTINO VENTURA, TO ATTEND THE INTERROGATION OF MR. LUIS
23 GONZALES ONTIVEROS, WHO HAD BEEN ARRESTED ON NOVEMBER 12 IN
24 CONNECTION WITH THE LA LANGOSTA MURDERS.

25 NOW I'M GOING TO READ TO YOU THE FIRST TWO OR THREE

28-189

1 PARAGRAPHS OF THIS CABLE AND ASK IF YOU WOULD BE KIND ENOUGH TO
2 LISTEN CAREFULLY. AND I KNOW IT'S LATE IN THE DAY, BUT LET'S
3 LISTEN AND SEE THE EXTRAORDINARY CONTRASTS BETWEEN WHAT
4 MR. GONZALES ONTIVEROS TOLD THE COMANDANTE OF THE MEXICAN
5 POLICE IN THE FULL PRESENCE OF THE D.E.A. REGARDING HIS
6 INVOLVEMENT IN THE LA LANGOSTA MURDERS AND COMPARE THAT TO WHAT
7 MR. PLASCENCIA TOLD YOU HERE.

8 PARAGRAPH ONE:

9 "ON NOVEMBER 14, 1985, AT APPROXIMATELY 6:00
10 P.M., SPECIAL AGENT RAUL DELGADO AND ROBERT CASTILLO
11 OF THE D.E.A. MET WITH MEXICAN FEDERAL JUDICIAL
12 POLICE DIRECTOR FLORENTINO VENTURA GUTIERREZ AND
13 FIRST COMANDANTE MIGUEL RODRIQUEZ-LORROBAQUIO
14 RELATIVE TO THE ARREST OF JOSE LUIS GONZALEZ
15 ONTIVEROS, WHICH OCCURRED ON NOVEMBER 12, 1985 IN
16 GUADALAJARA, JALISCO."

17 "AT THAT TIME A STATEMENT GIVEN BY THE DEFENDANT
18 TO THE M.F.J.P. WAS TEMPORARILY MADE AVAILABLE TO THE
19 SPECIAL AGENTS (OF THE D.E.A.)"

20 "THE STATEMENT OF GONZALES ONTIVEROS RELATED
21 THAT ON JANUARY 30TH 1985, THE DATE OF LA LANGOSTA,
22 HE WITNESSED THE BEATING OF U.S. CITIZENS ALBERTO
23 RADELAT AND JOHN WALKER IN THE LA LANGOSTA
24 RESTAURANT, BUT THAT HE DID NOT PARTICIPATE IN THEIR
25 ACTUAL MURDER."

1 THAT'S PARAGRAPH ONE. NOW, PARAGRAPH 2:

2 "GONZALES ONTIVEROS, A D.F.S. AGENT, STATED THAT
3 HE WAS RECRUITED BY FRANCISCO JAVIER TEJEDA
4 JARAMILLO, ALSO KNOWN AS "PACO" TEJEDA, ON OR ABOUT
5 SEPTEMBER 1984, FOR RAFAEL CARO QUINTERO; THAT
6 GONZALEZ ONTIVEROS RECEIVED PAYMENTS AND INSTRUCTIONS
7 ONLY FROM PACO TEJEDA, AND THAT GONZALEZ ONTIVEROS'
8 ASSIGNMENT WAS ONLY TO SERVE AS A SECURITY GUARD FOR
9 THE ORGANIZATION."

10 "ACCORDING TO GONZALEZ ONTIVEROS, ON LAST
11 JANUARY 30, 1985, HE -- THAT'S ONTIVEROS, AND A
12 SECOND GUARD IDENTIFIED AS SERGIO LAS CORONA WORKED
13 OUTSIDE OF THE LA LANGOSTA RESTAURANT ON POST WHEN
14 RADELAT AND WALKER WALKED IN."

15 "INSIDE THE RESTAURANT AT THE TIME WERE CARO
16 QUINTERO, JAVIER BARBA HERNANDEZ, DON NIETO (THAT'S
17 ERNESTO FONSECA), JOSE LUIS GALLARDO PARRA, ALSO
18 KNOWN AS EL GUERO, AND SAMY, THAT'S SAMUEL RAMIREZ
19 RAZO."

20 "MISTAKEN AS D.E.A. AGENTS AND/OR D.E.A.
21 INFORMANTS, WALKER AND RADELAT WERE FORCIBLY TAKEN TO
22 THE REAR OF THE RESTAURANT."

23 NOW, LISTEN TO THIS.

24 "GONZALEZ ONTIVEROS ADMITS GRABBING ONE OF THE
25 VICTIMS FROM BEHIND AND DRAGGING THE SUBJECT TO THE

1 AFOREMENTIONED LOCATION. BUT HE, ONTIVEROS, COULD
2 NOT RECALL WHICH OF THE TWO VICTIMS HE GRABBED.

3 "ONCE AT THE REAR OF THE RESTAURANT, WALKER AND
4 RADELAT WERE BEATEN BY PACO TEJEDA JARAMILLO, SERGIO
5 LAS CORONA AND JOSE LUIS GALLARDO-PARRA.

6 "GONZALEZ ONTIVEROS ADVISED THAT HE DID NOT
7 PARTICIPATE IN THE INTERROGATION AND TORTURE OF
8 WALKER AND RADELAT BECAUSE HE WAS INSTRUCTED BY PACO
9 TEJEDA TO REMAIN OUTSIDE OF THE RESTAURANT AS A
10 LOOK-OUT.

11 "GONZALEZ ONTIVEROS FURTHER ADVISED THAT HE
12 OBSERVED THE TWO GRINGOS AS THEY WERE CARRIED OUTSIDE
13 FROM THE RESTAURANT - BOTH COMPLETELY WRAPPED WITH
14 TABLECLOTHES - BY PACO TEJEDA, SERGIO CORONA AND JOSE
15 LUIS GALLARDO PARRA.

16 "GONZALEZ ONTIVEROS SAID THAT HE ASSISTED THESE
17 INDIVIDUALS IN PLACING THE VICTIMS INSIDE A VEHICLE
18 DESCRIBED AS A BRONCO. GONZALEZ ONTIVEROS ADVISED
19 THAT HE BELIEVED THE TWO VICTIMS WERE STILL ALIVE
20 BECAUSE HE RECALLS HEARING THE VICTIMS MOAN IN PAIN.

21 "ACCORDING TO GONZALES ONTIVEROS, CARO QUINTERO,
22 FONSECA CARRILLO AND JAVIER BARBA HERNANDEZ THEN
23 DEPARTED THE AREA IN ONE VEHICLE WHILE PACO TEJEDA,
24 SERGIO CORONA AND JOSE LUIS GALLARDO PARRA DEPARTED
25 WITH THE VICTIMS WALKER AND RADELAT IN THE BRONCO.

1 "HE, HIMSELF, THAT'S ONTIVEROS, ACCOMPANIED THE
2 LATER GROUP."

3 THAT MEANS HE RODE A CAR WITH THE TWO BODIES.

4 "THEY DROVE TO AN AREA UNKNOWN TO GONZALEZ
5 ONTIVEROS, BUT LATER IDENTIFIED DURING THE COURSE
6 OF THIS INVESTIGATION AS PARQUE DE LA PRIMAVERA,
7 PRIMAVERA PARK, IN GUADALAJARA.

8 "ONCE AT THE AFOREMENTIONED LOCATION, PRIMAVERA
9 PARK, GONZALEZ ONTIVEROS ASSISTED IN REMOVING RADELAT
10 AND WALKER FROM THE VEHICLE.

11 "HE ADVISED -- ONTIVEROS ADVISED -- THAT WHILE
12 THE GRAVES WERE BEING DUG, HE WAS AT THE VEHICLE
13 WHERE HE REMAINED AS THEY PROCEEDED TO BURY THE
14 VICTIMS.

15 "DURING THE PROCESS -- THE PROCESS OF BURYING
16 THE VICTIMS -- HE -- ONTIVEROS -- HEARD TWO OR THREE
17 SHOTS FIRED. GONZALEZ ONTIVEROS IS UNABLE TO SAY WHO
18 FIRED THE SHOTS OR IF THE SHOTS WERE FIRED AT WALKER
19 AND/OR RADELAT. THE REASON HE STATED WAS THAT IT WAS
20 VERY DARK AND HIS BEING BY THE VEHICLE PREVENTED HIM
21 FROM WITNESSING THE INCIDENT."

22 THE FIRST THREE PARAGRAPHS FROM DEFENSE EXHIBIT P,
23 THE CABLE SENT BY AGENT CASTILLO FROM MEXICO CITY IN NOVEMBER
24 1985 TO D.E.A. HEADQUARTERS IN WASHINGTON, D.C.; NOW, THAT IS
25 QUITE A CONTRAST TO WHAT ENRIQUE PLASCENCIA TOLD US UNDER OATH

28-193

1 HERE IN THIS TRIAL.

2 AND THIS WAS NOT JUST A CONFESSION, THIS WAS A
3 CONFESSION THAT WAS MADE IN THE PRESENCE OF THE D.E.A. FIVE
4 YEARS AGO. LONG BEFORE MR. PLASCENCIA BECAME AN INFORMANT,
5 LONG BEFORE THE INDICTMENTS CAME DOWN IN THIS CASE, THE D.E.A.
6 WAS ON NOTICE AS OF NOVEMBER 1985 THAT ONTIVEROS HAD GIVEN
7 THESE STATEMENTS, AND THAT HE HAS ATTESTED TO THE D.E.A. THAT
8 HE WAS A D.F.S. AGENT, JUST FOR STARTERS.

9 THAT'S INTERESTING. IF HE'S A D.F.S. AGENT AND NOT
10 AN I.P.S. AGENT, THEN HE'S NOT IN THE GROUP WITH PLASCENCIA
11 GOING TO THE RESTAURANT. THAT MAY SEEM LIKE A SMALL POINT,
12 BUT IT IS NOT. IT COMPLETELY REMOVES HIM FROM THE GROUP OF
13 PEOPLE THAT PLASCENCIA SAYS HE TRAVELED WITH TO GO TO THE
14 RESTAURANT. THAT, ALONE, IS A SUBSTANTIAL CONTRADICTION,
15 BECAUSE PLASCENCIA TOLD US THAT THE WHOLE BASIS, THE WHOLE
16 PURPOSE FOR BEING IN THAT GROUP WITH ONTIVEROS, WAS THAT THEY
17 WERE FELLOW OFFICERS OF THE I.P.S. OFF DUTY AT THE TIME, AND
18 WENT BACK BY 7:15 THAT EVENING TO THEIR OFFICE.

19 NOT TRUE. GONZALEZ ONTIVEROS MADE IT CLEAR FIVE AND
20 A HALF YEARS AGO. HE'S NOT AN I.P.S. OFFICER, HE'S A D.F.S.
21 OFFICER.

22 ONTIVEROS ADMITTED THAT HE HAD BEEN RECRUITED BY PACO
23 TEJEDA -- PACO TEJEDA, THE CHIEF LIEUTENANT OF CARO'S
24 ORGANIZATION.

25 NOW, PLASCENCIA WANTS YOU TO BELIEVE THAT HE WAS WITH

1 ONTIVEROS ALL THE TIME. ONTIVEROS IS ADMITTING HE WORKED
2 CLOSELY WITH PACO TEJEDA, AND YET WHAT DID PLASCENCIA TELL US
3 ON CROSS-EXAMINATION ABOUT PACO TEJEDA? THAT HE DIDN'T KNOW
4 HIM. NOW THAT'S INTERESTING. THAT'S A SUBSTANTIAL
5 CONTRADICTION.

6 I'M GOING TO ASK YOU TO HOLD ON TO THAT THOUGHT; THAT
7 IS, THE ASSOCIATION BETWEEN ONTIVEROS AND PACO TEJEDA, JUST FOR
8 A MINUTE BECAUSE I WANT TO GO BACK TO IT. IT'S ENTIRELY
9 INCREDIBLE THAT PLASCENCIA WOULD TELL YOU UNDER OATH THAT HE
10 DID NOT KNOW PACO TEJEDA, GIVEN THE CLEAR ASSOCIATION BETWEEN
11 ONTIVEROS AND TEJEDA.

12 EVERYTHING ELSE THAT ONVTIVEROS TOLD THE D.E.A. IN
13 NOVEMBER 1985 IS SUCH A SHARP CONTRADICTION THAT IT'S CLEAR
14 THAT THERE IS SOMETHING FUNDAMENTALLY WRONG AND COMPLETELY
15 DISHONEST ABOUT PLASCENCIA'S TESTIMONY.

16 AND I WANT TO EMPHASIZE THAT THE GOVERNMENT DID NOT
17 MENTION DEFENSE EXHIBIT P TO YOU. THIS CONFESSION BY ONTIVEROS
18 WAS MADE TO THE D.E.A., THE VERY AGENCY PROSECUTING THIS CASE,
19 BUT THIS IS A DEFENSE EXHIBIT. THE GOVERNMENT DIDN'T EVEN
20 BRING IT UP. I THINK THAT SAYS SOMETHING. I SUGGEST THAT IS
21 VERY, VERY TROUBLING.

22 WHAT IS THE GOVERNMENT DOING HERE? WHY IS THE
23 GOVERNMENT INVESTING ITS ENTIRE LA LANGOSTA CASE ON THE ALLEGED
24 EYE-WITNESS TESTIMONY OF ONE PERSON WHO WAS CLEARLY
25 DISCREDITED, CONTRADICTED, IMPEACHED -- HOWEVER YOU WANT TO

28-195

1 CALL IT -- FIVE YEARS EARLIER BY SOMEONE WHO CONFESSED TO THE
2 LA LANGOSTA MURDERS?

3 WHY? WAS THE D.E.A. SO EAGER TO PROSECUTE ONE OF
4 THESE SO-CALLED TIERRA LIBRE BROTHERS THAT THE D.E.A. WILLINGLY
5 TURNED A BLIND EYE TO THE CONTRADICTIONS THAT TAINT
6 PLASCENCIA'S ACCOUNT OF WHAT HAPPENED AT LA LANGOSTA, AND WHAT
7 ONTIVEROS CONFESSED TO FIVE YEARS AGO?

8 I ASK YOU TO CONSIDER THAT VERY SERIOUSLY. SHOULD WE
9 BELIEVE WHAT ONTIVEROS SAYS IN THIS CABLE? ABSOLUTELY. AND
10 I'M GOING TO SPEND SOME TIME ON THAT BECAUSE THAT'S AN
11 IMPORTANT POINT.

12 THE WAY THIS CABLE, WHICH IS DEFENSE EXHIBIT P, IS
13 WRITTEN, STRONGLY INDICATES THAT AGENT CASTILLO WAS VERY
14 IMPRESSED AT THE TIME BY THE INFORMATION THAT ONTIVEROS GAVE
15 REGARDING LA LANGOSTA. IN A NUT SHELL -- AND I WILL ASK IF YOU
16 WILL TAKE THE TIME DURING YOUR DELIBERATIONS TO CAREFULLY
17 REVIEW THIS EXHIBIT -- IT IS SO CRUCIAL, AND I CAN'T COVER IT
18 IN ITS ENTIRETY WITH YOU HERE ON CLOSING ARGUMENT, BUT I WOULD
19 POINT YOUR ATTENTION TO THE SALIENT OR SIGNIFICANT PARTS OF IT.

20 BUT WHEN YOU READ IT AND YOU TAKE THE TIME TO LOOK AT
21 IT, WHAT YOU'RE GOING TO NOTE IS THAT CASTILLO SEEMS TO TREAT
22 ONTIVEROS LIKE A SIGNIFICANT FIND, A BREAKTHROUGH IN THE
23 INVESTIGATION THAT WAS OBVIOUSLY ONGOING IN THE FALL OF 1985.

24 IN THAT REGARD, I'M JUST GOING TO READ A PORTION OF
25 PARAGRAPH 7 TO YOU SO YOU CAN SEE THAT ONTIVEROS ESSENTIALLY IS

28-196

1 BEING REGARDED AS SOMEONE WHO IS REALLY SHEDDING NEW LIGHT HERE
2 ON THE INVESTIGATION. PARAGRAPH 7:

3 "ON NOVEMBER 15, 1985, SPECIAL AGENT CASTILLO
4 AGAIN MET WITH FIRST COMANDANTE LORROBAQUIO AT
5 INTERPOL HEADQUARTERS IN MEXICO CITY, AND OBTAINED A
6 CASSETTE RECORDING OF GONZALEZ ONTIVEROS' VOICE.

7 "HAIR SAMPLES OF THE DEFENDANT WERE ALSO
8 OBTAINED. THE AFOREMENTIONED ITEMS WILL SUBSEQUENTLY
9 BE PROCESSED AS EVIDENCE AND SUBMITTED TO THE D.E.A.
10 HEADQUARTERS FOR WHATEVER ANALYSIS IS DEEMED
11 APPROPRIATE.

12 "A COMPLETE COPY OF THE DEFENDANT'S DECLARATION
13 HAS BEEN OBTAINED. AFTER TRANSLATION, A COPY OF SAID
14 DECLARATION WILL ALSO BE FORWARDED TO THE D.E.A.
15 HEADQUARTERS."

16 SO, IN A NUTSHELL, WE'RE TALKING ABOUT AGENT CASTILLO
17 CONTEMPLATING SOME SERIOUS FOLLOW-UP WORK TO FURTHER THE
18 INQUIRY INTO THE EVENTS THAT ONTIVEROS HAS BEEN TALKING ABOUT.
19 AND WHAT IT REALLY SHOWS IS THAT CASTILLO WAS ATTRIBUTING SOME
20 REAL CREDENCE, SOME REAL BELIEVABILITY HERE TO WHAT ONTIVEROS
21 WAS TELLING US, OTHERWISE, HE WOULDN'T WASTE HIS TIME WITH THIS
22 TYPE OF FOLLOW-UP WORK.

23 WHAT REALLY MAKES ONTIVEROS PARTICULARLY CREDIBLE IN
24 WHAT HE TELLS US ABOUT LA LANGOSTA IN THIS CABLE -- OR WHAT HE
25 TOLD AGENT CASTILLO, I SHOULD SAY, FIVE YEARS AGO -- IS THE

28-197

1 OTHER PORTION OF THIS CABLE IN WHICH HE DISCUSSES EVENTS
2 IMMEDIATELY SUBSEQUENT TO LA LANGOSTA.

3 BY THAT, I'M REFERRING TO THE TIME PERIOD RIGHT AFTER
4 LA LANGOSTA, JANUARY 31, 1985 UP TO FEBRUARY 12, 1985. AND I
5 REALIZE THIS IS LATE IN THE DAY AND I'LL PROBABLY HAVE TO STOP
6 AT SOME POINT IN THE MIDDLE OF MY THOUGHT, BUT WHAT HAPPENED
7 DURING THIS TIME PERIOD, JANUARY 31 OF 1985 TO FEBRUARY 12,
8 WHICH IS THE TIME PERIOD AT THE CONCEPTION OF THIS CABLE THAT
9 HE TALKS ABOUT IS, OF COURSE, CAMARENA AND ZAVALA. THAT
10 HAPPENED ON FEBRUARY 7TH.

11 AND I'M GOING TO READ PARAGRAPHS 4 AND 5 TO YOU, AND
12 I'M GOING TO ASK IF YOU WOULD LISTEN CAREFULLY TO THE DETAIL
13 WITH WHICH ONTIVEROS DISCUSSES HIS CLOSE WORKING RELATIONSHIP
14 WITH PACO TEJEDA, THIS INTIMATE CONNECTION TO THE CARO QUINTERO
15 ORGANIZATION, HOW HE IS BEING ENTRUSTED WITH SOME SIGNIFICANT
16 RESPONSIBILITIES -- AND THIS IS ALL HAPPENING WITHIN THE WEEK
17 AFTER LA LANGOSTA AND IT'S SPECIFICALLY THE EXACT TIME PERIOD
18 WHEN CAMARENA AND ZAVALA IS OCCURRING. PARAGRAPH 4:

19 "IN REGARD TO THE MURDER OF SPECIAL AGENT
20 ENRIQUE CAMARENA, GONZALEZ ONTIVEROS DENIED KNOWLEDGE
21 AND/OR INVOLVEMENT IN THE ENTIRE INCIDENT. THE
22 DEFENDANT ADVISED THAT HE HAD RECEIVED SPECIFIC
23 INSTRUCTIONS FROM PACO TEJEDA TO TRANSPORT THREE
24 VEHICLES ALONG WITH SERGIO LAS CORONA."

25 I'LL STOP THERE FOR A MINUTE. REMEMBER CORONA WAS

28-198

1 ONE OF THE PEOPLE IN THE CAR TRANSPORTING WALKER AND RADELAT,
2 ALONG WITH ONTIVEROS TO PRIMAVERA PARK. AND THERE ARE OTHER
3 PEOPLE THERE WHO WERE GOING TO CABORCA: EL VIEJITO, LUIS
4 FANTAS, WHOSE NICKNAME IS FANTASMO, AND SO FORTH.

5 THE TRIP TO CABORCA WAS TO BE FROM GUADALAJARA,
6 JALISCO TO CABORCA, SONORA. ONTIVEROS SAID THAT ON OR ABOUT
7 FEBRUARY 6, 1985, THE DAY BEFORE CAMARENA'S ABDUCTION, AT
8 APPROXIMATELY 12 NOON, THE AFOREMENTIONED INDIVIDUALS, HIMSELF,
9 CORONA AND THE OTHERS, DEPARTED GUADALAJARA FOR CABORCA AFTER
10 RECEIVING 100 THOUSAND PESOS FROM PACO TEJEDA.

11 THEY WERE INSTRUCTED TO CHECK INTO THE HOTEL CAMINO
12 OR CAMINANTE LOCATED AT THE ENTRANCE WAY INTO CABORCA, ADJACENT
13 TO A PEMEX GASOLINE STATION, AND TO WAIT FOR THE ARRIVAL OF
14 CARO QUINTERO.

15 THAT'S PARAGRAPH 4. PARAGRAPH 5.

16 "ACCORDING TO GONZALEZ ONTIVEROS, CARO
17 QUINTERO ARRIVES VIA --"

18 AND THE CABLE WRITES 'A/C'. TO TELL YOU THE TRUTH, I DON'T
19 KNOW WHAT THAT STANDS FOR. PROBABLY MAYBE AEROCOMMANDER OR
20 SOME TYPE OF PLANE --

21 "-- CARO QUINTERO ARRIVES VIA A/C TO CABORCA ON OR
22 ABOUT FEBRUARY 12, 1985"

23 -- IT'S NOW JUST AFTER THE CAMARENA INCIDENT --

24 "-- UTILIZING AN AIR STRIP WITHIN THE CITY LIMITS.

25 ONTIVEROS RECALLS THE PILOT, CARO QUINTERO, PACO

28-199

1 TEJEDA, AND A BUNCH OF PEOPLE BY NICKNAMES OF 'NINI'
2 AND 'EL AMADITO' AS THE ONLY PASSENGERS.

3 "GONZALEZ ONTIVEROS ADVISED THAT ROGELIO MUNOS
4 RIOS WAS NOT ONE OF THE PASSENGERS. AND UPON ARRIVAL,
5 ALL THE INDIVIDUALS ATTENDED THE WEDDING OF A FRIEND
6 OF CARO QUINTERO, IDENTIFIED ONLY AS 'EL CHAPON'.

7 "THE WEDDING WAS HELD IN A CHURCH LOCATED AT
8 CABORCA. GONZALEZ ONTIVEROS SAID THAT HE REMAINED
9 OUTSIDE THE CHURCH AS SECURITY."

10 EXACTLY THE SAME FUNCTION THAT HE SAYS HE SERVED AT
11 LA LANGOSTA.

12 "AFTER THE CEREMONY, THE RECEPTION WAS CONDUCTED
13 AT A RANCH LOCATED A GREAT DISTANCE AWAY FROM
14 CABORCA. ACCORDING TO ONTIVEROS, IT WAS AT THIS TIME
15 THAT PACO TEJEDA RELATED THE INCIDENT WHICH THEY HAD
16 EXPERIENCED THAT MORNING AT THE GUADALAJARA AIRPORT
17 WITH THE MEXICAN FEDERAL JUDICIAL POLICE AGENTS."

18 THE FAMOUS CONFRONTATION. PACO TEJEDA IS TELLING
19 ONTIVEROS ALL OF THIS.

20 NOTE, IT SAYS HERE:

21 "THE AFOREMENTIONED INCIDENT OCCURED ON FEBRUARY
22 9, 1985 AND IT HAS BEEN ASCERTAINED THAT THE
23 AFTERNOON OF FEBRUARY 9, 1985 CARO QUINTERO AND
24 ASSOCIATES FLEW INTO CABORCA, SONORA TO ATTEND THE
25 WEDDING, AS DENOTED BY ONTIVEROS."

28-200

1 THAT LAST SENTENCE CONFIRMS THAT CASTILLO IS
2 CORROBORATING THE INFORMATION REGARDING THAT CABORCA TRIP. AND
3 ONTIVEROS SAID IT IS 100 PERCENT ACCURATE, AND OBVIOUSLY,
4 HIGHLY RELIABLE.

5 NOW, THAT IS A LOT TO ABSORB, ESPECIALLY AT THE END
6 OF THE DAY. YOUR HONOR, I WONDER IF THIS MIGHT BE AN
7 APPROPRIATE TIME TO BREAK? IS THAT ACCEPTABLE TO THE COURT?
8 I CAN CERTAINLY CONTINUE, YOUR HONOR, BUT I'M MINDFUL OF THE
9 FACT THAT WE'RE NOW APPROACHING 4:30.

10 THE COURT: WE'LL TAKE OUR AFTERNOON RECESS AT THIS
11 TIME. I WANT TO REMIND THE JURY MOST IMPORTANTLY AGAIN TO
12 REMEMBER THE RESPONSIBILITIES THAT YOU HAVE NOT TO DISCUSS THIS
13 CASE WITH EACH OTHER OR ANYONE ELSE, AND NOT TO FORM ANY
14 OPINION OR CONCLUSION ABOUT THE CASE, AND NOT TO PERMIT ANYONE
15 TO TALK TO YOU ABOUT THE CASE, AND BY ALL MEANS, NOT TO READ
16 ANYTHING ABOUT THIS CASE OR TO WATCH ANYTHING ON TELEVISION OR
17 HEAR ANYTHING ON THE RADIO. YOU HAVE TO MAKE AN EFFORT TO
18 AVOID THAT IN ALL POSSIBLE WAYS. IT'S YOUR RESPONSIBILITY.

19 DO YOU REMEMBER BEFORE THE TRIAL I TALKED WITH EACH
20 ONE OF YOU INDIVIDUALLY AND DISCUSSED WITH YOU THE IMPORTANCE
21 OF DECIDING THIS CASE ON THE BASIS OF THE EVIDENCE THAT IS
22 PRESENTED HERE IN THE COURTROOM. AND I HAVE DISCUSSED, AND I
23 THINK YOU ALL AGREED WITH IT, THAT NEWSPAPER STORIES ARE NOT
24 EVIDENCE AND NO PERSON'S RIGHTS SHOULD BE DECIDED BY WHAT IS
25 READ IN THE NEWSPAPERS. THAT IS SIMPLY NOT EVIDENCE.

28-201

1 THE EVIDENCE IS WHAT YOU HAVE HEARD, WHAT THE LAWYERS
2 ARE NOW DISCUSSING WITH YOU, AND SO YOU SHOULD MAKE EVERY
3 EFFORT TO SHIELD YOURSELF FROM ANY PUBLICITY REGARDING THIS
4 CASE.

5 YOU MAY BE EXCUSED NOW. WE'LL SEE YOU TOMORROW.

6 I THINK TOMORROW I'D LIKE TO START AT 9:00 AND I
7 WOULD LIKE TO HAVE YOU ALL HERE BY THAT TIME.

8 THE CLERK: PLEASE RISE. THIS COURT IS NOW IN
9 RECESS.

10 (JURY EXCUSED.)

11 (COURT STANDS IN RECESS UNTIL THURSDAY, JULY 12, 1990
12 AT 9:00 A.M.)

13 ----0----

14 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
15 RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

16

17

Julie Churchill

DATED: July 23, 1990

18

JULIE A. CHURCHILL, CSR NO. 6155

19

OFFICIAL COURT REPORTER

20

21

22

23

24

25

INDEX: U.S.A. V. MATTA BALLESTEROS 28-202				PG	LN
(EXHIBIT # F RECEIVED IN EVIDENCE.)				7	24
LOS ANGELES	+	CALIFORNIA	WEDNESDAY,	4	1
JULY 11, 1990	+	9:30 A.M.		4	2
CLOSING ARGUMENT	+	ON BEHALF OF THE GOVERNMENT		56	12
LOS ANGELES	+	CALIFORNIA	WEDNESDAY,	102	1
JULY 11, 1990	+	1:30 P.M.		102	2
CLOSING ARGUMENT	+	ON BEHALF OF VASQUEZ		183	11
THERE IS ONE OTHER	EXHIBIT	THAT THE GOVERNMENT		7	4
COURT: WHAT IS THE	EXHIBIT	?	MR.	7	7
IT IS DEFENSE	EXHIBIT	F, THE COOPERATING		7	8
I ONLY ASKED WHAT THE	EXHIBIT	WAS AND YOU HAVE		7	13
(EXHIBIT	# F RECEIVED IN		7	24
NO. 9, AS APPROVED.	EXHIBIT	NO. 10 MAY BE AMENDED		8	2
DEMONSTRATIVE TYPE OF	EXHIBIT	. IT IS THE		37	6
A REDACTION ON THE	EXHIBIT	, THE JULY 25TH		51	3
25TH TRANSCRIPT ON	EXHIBIT	BBB, DEFENSE EXHIBIT,		51	3
EXHIBIT BBB, DEFENSE	EXHIBIT	, AND EXHIBIT 165 FOR		51	4
DEFENSE EXHIBIT, AND	EXHIBIT	165 FOR THE		51	4
TO ADMIT ADDITIONAL	EXHIBIT	S, THE COURT HAS READ		52	7
TO LOOK AT GOVERNMENT	EXHIBIT	173. 173.		63	16
THEY FIND GOVERNMENT	EXHIBIT	72. REMEMBER THE		75	20
INTERESTING THINGS.	EXHIBIT	63, A PHOTOGRAPH --		77	7
I THINK ON THE SHELF,	EXHIBIT	65, A PHOTO OF TWO		77	10
THIS AREA. THIS IS	EXHIBIT	170. THIS IS THE		80	18
THE HOUSE, GOVERNMENT	EXHIBIT	19, WHERE AN		84	6
TO FOCUS GOVERNMENT	EXHIBIT	22. THIS IS A TRUST		86	18
AIRCRAFT, GOVERNMENT	EXHIBIT	20, AND AEROCOMMANDER		86	20
ITEM HERE, GOVERNMENT	EXHIBIT	30. I WANT YOU TO		87	8
NAPKIN. HERE IT IS,	EXHIBIT	28-A. AND		90	16
28-A. AND	EXHIBIT	28-B IS ANOTHER		90	17
HERE, GOVERNMENT	EXHIBIT	111-G, WAS THE		125	8
TO THE PHOTOSPREADS,	EXHIBIT	173, PHOTOGRAPH		128	18
ALSO SHOWN GOVERNMENT	EXHIBIT	179, WHICH IS A		128	20
ESPARRANZA THIS	EXHIBIT	173 THAT HAS THE		138	18
PHOTOGRAPHS. ONE IS	EXHIBIT	63. THAT IS A		144	7
OF THIS PHOTOGRAPH,	EXHIBIT	63. THIS PHOTOGRAPH		144	11
MR. NICOLAYSEN: WHAT	EXHIBIT	NUMBER OR LETTER THEN		159	16
GOVERNMENT CLEARS THE	EXHIBIT	S. YOUR HONOR, IT'S		183	6
THERE IS A DEFENSE	EXHIBIT	THAT HAS BEEN		188	4
OF THE LETTER. IT'S	EXHIBIT	P, AS IN PETER. IT		188	6
TO BE DISCUSSING THIS	EXHIBIT	IN DETAIL WITH YOU		188	10
TURN OUR ATTENTION TO	EXHIBIT	P AND SEE EXACTLY		188	15
FROM DEFENSE	EXHIBIT	P, THE CABLE SENT BY		192	22
NOT MENTION DEFENSE	EXHIBIT	P TO YOU. THIS		194	17

INDEX: U.S.A. V. MATTA BALLESTEROS 28-202

			PG	LN
BUT THIS IS A DEFENSE	EXHIBIT	. THE GOVERNMENT	194	19
WHICH IS DEFENSE	EXHIBIT	P, IS WRITTEN,	195	12
CAREFULLY REVIEW THIS	EXHIBIT	-- IT IS SO CRUCIAL,	195	17